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ABSTRACT

Education and law enforcement officials are all committed to ensuring that students throughout the nation are able to attend school safely, free from all forms of harassment. However, some students are subject to verbal and physical abuse and intimidation based on their race, ethnicity, national origin, religion, sex, disability, or sexual orientation. This harassment can lead to serious violence against students and can adversely affect their ability to learn or to benefit from an educational program. School officials, working closely with students, parents and community groups, play a critical role in ensuring that such forms of harassment and violence have no place in the schools. This guide provides a framework for developing policies and practices to prevent harassment and to respond to it effectively when it does occur. Actions that are specifically required by current federal law are identified and best practices to ensure an effective program are recommended. The guide provides step-by-step assistance to schools for the following: (1) developing a comprehensive written anti-harassment policy; (2) identifying and responding effectively to harassment; (3) establishing formal reporting and complaint procedures; (4) creating a safe and supportive school climate; (5) responding to hate-motivated violence through cooperation and partnerships between school and law enforcement officials; and (6) developing crisis intervention plans to avoid disruption of the educational process. The guide defines and describes harassment and hate crimes, contains information about applicable laws, details specific positive steps that schools can take to prevent and respond to harassment, includes sample policies and procedures used by school districts, and identifies many of the resource materials available to assist schools. Includes information on applicable 1999 court cases. (Author/MLF)

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ED 431 246

U.S. Department of Education
Office for Civil Rights

National Association of
Attorneys General

Protecting Students
from Harassment and Hate Crime

Endorsed by the National School Boards Association:

"Research indicates that creating a supportive school climate is the most important step in preventing harassment. A school can have policies and procedures, but these alone will not prevent harassment. This is the kind of good preventive work the field needs to help ensure that schools provide a safe and welcome environment for all students."

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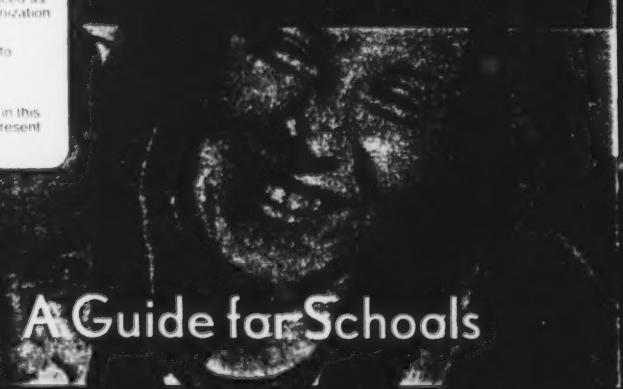

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A Guide for Schools

Protecting Students from Harassment and Hate Crime

A Guide for Schools

U.S. Department of Education
Office for Civil Rights

National Association of Attorneys General

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September 1999

THE SECRETARY OF EDUCATION

WASHINGTON, D.C. 20202

September 15, 1999

Dear Colleague:

I am very pleased to join with the National Association of Attorneys General (NAAG) in reissuing this Guide for schools on protecting students from harassment and hate crimes. Recent, tragic incidents of violence have intensified school officials' desire to identify and implement programs that may reduce the potential for disruption and conflict in schools.

The Guide is the product of a joint effort by NAAG and the Office for Civil Rights (OCR) of the U.S. Department of Education. Similar to other guidelines that this Department has issued on issues such as religion in the schools, school safety, and school uniforms, it is designed to be a source of information and help to schools and school districts in dealing with fundamental problems and issues that they must confront.

Our schools owe students a safe environment that is conducive to learning and that affords all students an equal opportunity to achieve high educational standards. Harassment and hate crimes undermine these purposes and may cause serious harm to the development of students who are victimized by this behavior.

I hope that you find the information in the Guide useful.

Yours sincerely,

Dick Riley

Richard W. Riley

Dear School Superintendents, Administrators, School Board Members and Equity Coordinators:

As education and law enforcement officials, we are all committed to ensuring that students throughout our nation are able to attend school safely in an environment free from all forms of harassment. The United States Supreme Court has recently affirmed that federal law protects students from harassment by school employees and other students. Many states also have laws that prohibit discrimination or harassment. The Guide provides school administrators and others with practical guidance for developing a comprehensive approach to protecting students from harassment and violence.

School officials, working closely with students, parents and community groups, play a critical role in ensuring that such forms of harassment and violence have no place in our schools. In this regard, we are pleased to reissue this copy of *Protecting Students from Harassment and Hate Crime: A Guide for Schools*, developed jointly by the U.S. Department of Education, Office for Civil Rights, and the Bias Crimes Task Force Subcommittee of the National Association of Attorneys General, in cooperation with the U.S. Department of Education, Office of Elementary and Secondary Education, Safe and Drug-free Schools Program.

We know that some students are subject to verbal and physical abuse and intimidation based on their race, ethnicity, national origin, religion, sex, disability, or sexual orientation. In recent months, we have become more and more aware that harassment can lead to serious violence against students and can affect adversely their ability to learn or to benefit from an educational program.

The Guide defines and describes harassment and hate crimes, contains information about applicable laws, details specific positive steps that schools can take to prevent and respond to harassment, includes sample policies and procedures used by school districts in the

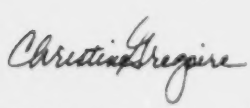
United States, and identifies many of the resource materials available to assist schools. It provides step-by-step assistance for:

- Developing a comprehensive written anti-harassment policy;
- Identifying and responding effectively to harassment;
- Establishing formal reporting and complaint procedures;
- Creating a safe and supportive school climate;
- Responding to hate-motivated violence through cooperation and partnerships between schools and law enforcement officials; and
- Developing crisis intervention plans to avoid disruption of the educational process.

While it is possible for harassment or violence to occur despite the best preventive efforts of school officials, we believe that information contained in this Guide will provide invaluable assistance to schools when developing the policies and procedures necessary to create safe schools that foster constructive relationships among students and staff. Ultimately, it will take the efforts of all members of the community, educators, parents, students, law enforcement and others to make schools a place where every single student is safe and has an equal opportunity to achieve academic excellence.

For more information about how to use this Guide, please contact Office for Civil Rights staff at 800/421-3481 or at any of the telephone numbers listed on page 139. Please consult with your own attorney general, at the locations shown on pages 140 to 142, for laws specific to your state. We hope you will find this Guide useful and look forward to working together with you to prevent harassment and violence in our nation's schools.

Yours sincerely,



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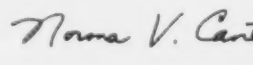

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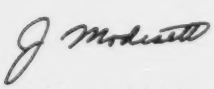

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This Guide is not intended to and does not add to or subtract from any otherwise applicable requirements contained in any federal or state law. The Guide is intended to provide suggestions that school systems may find helpful to address the issue of harassment and violence in the schools. Participation by the Bias Crimes Task Force of the NAAG Civil Rights Committee and the United States Department of Education, Office for Civil Rights (OCR) in this joint project should not be interpreted to mean that NAAG, any state Attorney General's office, or the Department of Education requires any school department, school district or school to make use of this Guide.

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disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request. For more information, please contact us at: U.S. Department of Education, Office for Civil Rights, by telephone at 800/421-3481, by email at OCR@ed.gov, or at any of the field offices listed in this Guide. Individuals who use a telecommunications device for the deaf (TDD) may call OCR's TDD number at 202/205-5166.

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Introduction

This Guide represents a joint effort of the *Office for Civil Rights (OCR) of the United States Department of Education* and the *National Association of Attorneys General (NAAG)* to provide elementary and secondary schools with practical guidance to help protect students from harassment and violence based on race, color, national origin, sex, and disability. The laws enforced by the U.S. Department of Education protect students from discrimination on these bases.[1] The Guide may also be of assistance in protecting students from harassment based on sexual orientation, religion, or other grounds that are covered by state or local laws or that schools recognize as particularly damaging to their students.

Too many students are hurt by harassment. In one survey, 68% of girls and 39% of boys, grades 8-11, reported sexual harassment. Another study indicated that 20% to 25% of students had been victimized in racial or ethnic incidents in the course of a school year.[3] Frequently, a juvenile is either the offender or the victim in violent crimes motivated by racial and ethnic prejudice and sexual aggression.

Students may encounter harassment by other students or by teachers and other school employees. Students may also experience harassment by members of the public who are participating in school activities, such as spectators at athletic events. Harassment can encompass a range of harmful conduct, from the most violent crimes to episodes of vandalism or persistent and abusive name-calling among grade school students that may deprive students of equal educational opportunities. If ignored, harassment can jeopardize students' academic achievement, undermine their physical and emotional well-being, provoke retaliatory violence, damage the school's reputation, and exacerbate community conflicts.

This Guide provides a framework for developing policies and practices to prevent harassment and to respond to it effectively when it does occur. Such policies and practices should also assist school districts in avoiding legal claims.

Actions that are specifically required by current federal law are identified in the Guide. The Guide also recommends best practices to ensure an effective program. For detailed information on applicable federal civil rights requirements, readers should consult two guidance documents on racial and sexual harassment issued by the Office for Civil Rights.[4] Many states also have laws that prohibit discrimination and harassment based on race, national origin, sex, disability, religion, or sexual orientation. In some cases, incidents of harassment may violate state, local, or federal criminal laws. For specific information on state and local laws applicable to harassment and hate crime, schools should consult the state attorney general and the department of education in their state. Because legal requirements can change as a result of new legislation and court decisions, users of this guidebook should consult agencies knowledgeable about civil rights laws from time to time for updated information. Schools should consult their own attorneys for specific legal advice.

Part I of this Guide — the Fundamentals — briefly explains the basic concepts and strategies that are part of a comprehensive approach to eliminating harassment and hate crime. Part II — Step-by-Step Guidance — elaborates upon the elements of an effective anti-harassment program that were introduced in Part I. The Appendices provide the names and addresses of organizations that have experience and expertise in addressing harassment and violence, gives examples of widely used educational materials and classroom techniques for preventing harassment and promoting tolerance, and identifies other resources for schools in developing effective anti-harassment programs.

The examples of anti-harassment policies and procedures presented for illustrative purposes are taken from existing state and local school policies. Inclusion of a particular policy in this document does not signify its endorsement by OCR, any other federal agency, or NAAG. Consideration of a range of such examples should assist schools in determining which methods and procedures will best support their district's anti-harassment policies and programs. As discussed further in this Guide, all anti-harassment policies should be written and applied in a manner that recognizes the First Amendment rights of students and employees.

Part I: The Fundamentals

A Comprehensive Approach to Eliminating Harassment and Hate Crime

Part I: The Fundamentals

A Comprehensive Approach to Eliminating Harassment and Hate Crime

To establish an educational environment free from discrimination and harassment will ordinarily require more than just punishing individual instances of misconduct. Students will benefit most from stopping harassment from happening at all. Therefore, an effective anti-harassment program must incorporate the kinds of strategies that will prevent harassment, not merely increase the chance of punishment. While building a strong program often starts with developing and enforcing written policies and procedures, all of a school district's programs and activities should support its anti-harassment efforts. The school's instructional program, calendar of events, extracurricular activities, professional development efforts, and parent involvement initiatives are key to establishing an environment in which respect for diversity can flourish.

Successful prevention strategies depend on the coordinated efforts of all school employees, including individuals responsible for administration, curriculum, instruction, discipline, counseling, public relations, and personnel. Parents, students, law enforcement agencies, and other community organizations also play an important role. Schools should consider developing action plans both at the district level and at individual school sites that specify the steps each segment of the school community will take to implement a comprehensive anti-harassment program.

By designing and implementing a comprehensive approach, schools can establish the framework for a safe environment conducive to learning for all students. The key components are as follows.

Develop written policies that prohibit unlawful harassment

At a minimum, a school's governing authority should adopt and disseminate written policies that:[5]

- Set forth the school's commitment to protect students from harassment and violence and to maintain a nondiscriminatory environment
- Identify the types of harassment prohibited by the policy and give examples
- Require staff to report harassment that they learn about
- Explain how to report harassment and to whom to report it
- Describe the various steps the school will take to respond to reported incidents
- Include formal complaint procedures
- Prohibit retaliation against persons who report harassment or participate in related proceedings
- Ensure that all members of the school community are aware of their rights and responsibilities

Student codes of conduct and *personnel policies* should also be examined to ensure that they contain rules of behavior, offense categories, and disciplinary procedures to address violations of the district's anti-harassment policies appropriately.

For additional recommendations, see Part II: Developing Written Anti-Harassment Policies, page 15.

Identify and respond to all incidents of harassment and violence

All staff and administrators should be taught to accurately and sensitively advise students and parents reporting harassment of the relevant school policies and the options for stopping the harassment. In all instances, students and parents reporting harassment should be told how to file a formal complaint. Reporting procedures should be easy to use and well publicized. At least one employee should be formally designated and trained to receive complaints. The names and positions of the

Steps in a comprehensive approach

- Board members, district administrators, and the superintendent recognize the urgency of the problem of unlawful harassment and hate crime, identify people and agencies that can help them develop effective prevention and response strategies, and compile a library of useful materials
- School officials select personnel to work on creating an effective anti-harassment program in consultation with parents, students, and community groups
- Compliance coordinators are appointed and trained
- School personnel assess the school climate to determine the prevalence and types of harassment that may exist and the potential for hate-motivated violence
- School district adopts a written anti-harassment policy or reviews and revises existing policies for accuracy, clarity and legal compliance; the policy is clearly communicated to all members of the school community; and school personnel and students are held accountable for their actions
- School district develops a formal grievance procedure and takes steps to make sure it is working properly
- Instructional personnel use or supplement the district's curriculum and pedagogical strategies to foster respect and appreciation for diversity
- School sites institute, improve, or expand age appropriate student activities to prevent or reduce prejudice and conflict
- School district and individual school sites institute specific measures to respond immediately and effectively when harassment occurs to stop the harassment and prevent recurrence
- School officials flexibly apply response mechanisms to both the victim and the perpetrator, taking into account the parties' ages and the context of the behavior
- School personnel continually monitor the school climate and promptly address problems that could lead to harassment or violence or that indicate that harassment could be occurring
- Appropriate school officials become familiar with pertinent civil and criminal laws at the state, local, and federal levels, so that they are able to recognize possible civil rights violations, hate crimes and other criminal acts
- Schools develop guidelines and procedures for collaboration with law enforcement officials, make appropriate referrals to outside agencies, and designate liaison personnel
- Crisis intervention plans are in place to minimize the possibility of violence or disruption of the educational process
- District-level personnel and individual school sites form continuing partnerships with parents and the community to prevent hate crimes and harassing behaviors
- Staff training and professional development programs support the district's anti-harassment efforts
- All harassment incidents are carefully documented and incidents are reported to outside authorities as required
- District regularly assesses the effectiveness of its anti-harassment efforts

persons designated should be made known to all members of the school community.

Require all staff to report to a designated school official, who has authority to take corrective action, any harassment that students report to them or that the employees observe. School personnel should not overlook incidents that, viewed alone, may not rise to the level of unlawful harassment. Consistent enforcement of all disciplinary rules and meaningful interventions by staff to teach appropriate behavior will tend to discourage more severe misconduct and to help achieve an atmosphere of respect and courtesy. Consider all available resources to address instances of inappropriate behavior, including increased parental involvement.

A repertoire of options that consider the nature of the conduct and the age and identity of the perpetrator and target of harassment are needed to respond to incidents of varying levels of severity, persistence, and pervasiveness. Top school officials or a designated coordinator may wish to screen all allegations of harassment to make sure that an appropriate course of action will be taken.

In responding to incidents of harassment, schools should pay close attention to the possibility that harassers and their friends and associates may attempt to retaliate against persons who report harassment. Retaliation or reprisals can include threats, bribes, unfair treatment or grades and further harassment such as ridicule, pranks, taunting, bullying, and organized ostracism.

Recognize that students may be harassed, not only because of their own race, sex, ethnicity or other characteristics, but also because of their association with individuals who are members of a targeted group.

Effective mechanisms to respond to incidents of harassment

- **Immediate investigation of all reported incidents to determine whether the alleged harassment occurred, determine the scope and severity of the behavior, identify the perpetrators, evaluate the harm to the victims, and determine the appropriate corrective action**
- **Immediate referral to law enforcement authorities when the acts in question are violent or criminal in nature**
- **Forthright announcements by school authorities condemning the harassment and promising appropriate corrective action when the incidents are well known or of public concern[6]**
- **Punishment, as appropriate, of harassers who violate provisions of the school's student disciplinary code, such as provisions against sexual and racial harassment, obscene language, vandalism, other property damage, physical assault, threats and intimidation, etc.**
- **Disciplinary action, as appropriate, against employees who violate the school's policies against sexual, racial, and other types of harassment**
- **Ongoing remedial actions intended to prevent recurrence, such as increasing adult supervision of an activity in which incidents have occurred and close monitoring of the victim's security**
- **Emotional and psychological support as needed by the harassment victim**
- **Informal procedures for resolution, such as peer mediation or counseling, when informal resolution is voluntarily selected by the parties, the harassment victim has full knowledge of the right to pursue the formal complaint process, and the school determines that informal resolution is appropriate for the incident in question**
- **Teaching students who engage in harassing conduct more acceptable behavior, especially where the students are very young or the conduct was not intended to be harmful**

For additional recommendations, see Part II: Identifying and Responding to Incidents of Harassment, page 23.

Provide formal complaint procedures

A formal complaint process is necessary in addition to the various other mechanisms that districts should use to address all incidents of harassment. The district should provide formal complaint procedures that ensure students and their parents a means of obtaining corrective action, if they prefer to file an official complaint or are dissatisfied with the district's response to alleged harassment.

Federal laws prohibiting sex and disability discrimination require prompt and equitable complaint procedures that incorporate due process standards.[7] Such procedures are also recommended to address complaints of race and national origin discrimination, and other types of discrimination addressed by a district's policy. The term "grievance procedures" is also used to refer to formal complaint procedures, and this Guide uses the terms interchangeably.

Formal complaint procedures should include:

- Notice to students, parents, and employees of the process, including how and where complaints can be filed
- An opportunity for a prompt, thorough, and impartial investigation, including the opportunity to present witnesses and other evidence
- Confidentiality of the complainant, the alleged harasser, and any witnesses, to the extent possible in the particular case
- Notification to the complainant of the outcome of the complaint consistent with any legally required privacy restrictions
- Effective remedies when discrimination is found

For additional recommendations, see Part II: Formal Complaint Procedures, page 31.

Create a school climate that supports racial, cultural, and other forms of diversity

There is a growing consensus among educators that the best way to protect students from harassment is to establish a secure environment that expects appropriate behavior and promotes tolerance, sensitivity to others' views, and cooperative interactions among students. Effective anti-harassment programs therefore endeavor to provide students with a curriculum, teaching methods, and school activities that discourage stereotypes and respond to the concerns of students of different races and cultural backgrounds.

MAKE EXPECTATIONS CLEAR. The district should regularly communicate its policies against harassment to all members of the school community, including students, staff, parents, and school visitors, and make it clear that the policies will be enforced. Take steps to make sure that students are able to identify harassment, understand its causes and effects, and feel comfortable reporting instances of harassment.

MONITOR THE SCHOOL ENVIRONMENT AND DOCUMENT ALL INCIDENTS. The school environment and activities should be regularly monitored to ensure that harassment is not occurring. All instances of alleged or suspected harassment, whether or not substantiated, should be documented. Documentation should include all disciplinary incidents in which race, national origin, sex, disability, or other subjects of district concern are a factor.

IDENTIFY STUDENT AND PARENT CONCERNS. Without an effort to identify student and parent concerns, school officials may not realize the extent of harassment that occurs in their schools. To identify areas needing attention, school officials should seek out information about underlying conflicts and tensions among students, both in school and in the community. Areas of concern could include possible antipathy toward recent immigrants, pervasive racial stereotypes, frequent sexual harassment, and any inequities in treatment by school personnel as perceived by students and parents. Such information can be obtained via a voluntary survey or through public meetings. Maintain contact with students and parents to identify potential "trouble spots" for attention before harassment occurs.

STAFF TRAINING. A school district should provide sufficient training to enable employees to take an active part in the district's efforts to prevent

and address harassment. In-service training and professional development opportunities should be geared to:

- Assist teachers, coaches, counselors, administrators, and paraprofessionals to recognize harassment and prejudice and to apply techniques for on-the-spot intervention
- Deepen the understanding of teachers and other employees of diverse cultural attitudes and behaviors; racial, ethnic, and sex based stereotypes; and the types of problems faced by students at school and in the community
- Enable teachers to use specific prejudice reduction curricula, materials, and techniques in the classroom
- Increase employees' sensitivity to the phenomena of racial, sexual, and disability harassment and the emotional, psychological, and educational damage that may result
- Inform teachers and other employees of expected behavior to prevent charges of harassment and suggest ways to improve communication skills to avoid unintended offense
- Ensure that all employees appropriately advise students and parents who report harassment of their options for obtaining help
- Enable administrators, compliance coordinators, complaint managers, complaint investigators, and school disciplinarians to properly perform their duties as designated by district policies

CURRICULUM AND TEACHING METHODS. Successful anti-harassment efforts generally provide opportunities for students to overcome ignorance, mistrust, and biases. Age appropriate prejudice reduction and sexual respect concepts can be included in social studies, literature, and other classes.

Examples of teaching strategies that can help to reduce prejudice include modeling unbiased behavior, improving students' critical thinking skills, helping students to develop empathy, and encouraging cooperative learning.[10] Numerous curriculum materials are available with little or no charge. For examples of prejudice reduction programs and related materials, see *Preventing Youth Hate Crime: A Manual for Schools and Communities* and the *Annual Report on School Safety* published by the U.S. Department of Education in conjunction with the U.S. Department of Justice and other publications cited in Appendix E of this Guide. *Preventing Youth Hate Crime: A Manual for Schools and Communities* and the *Annual Report on School Safety* are available at www.ed.gov/offices/OESE/SDFS/news.html.

STUDENT ACTIVITY AND MEDIATION PROGRAMS. Student activities, such as leadership clubs, that encourage students of different backgrounds and both sexes to work together on shared projects can contribute to intergroup understanding. Many schools use trained student mediators to resolve personal conflicts that could lead to harassment. In some schools, student volunteers are trained to discuss diversity issues with their peers or younger students in the classroom.

APPOINTMENT OF COMPLIANCE COORDINATOR. Federal regulations require the appointment of individual employees to coordinate the district's efforts to comply with laws against sex and disability discrimination.[11] Appointment of individuals to coordinate efforts to eliminate discrimination based on race, national origin, and other grounds covered by the district's policy is also recommended.

The duties of compliance coordinators (also termed "equity coordinators") might include:

- Maintaining and analyzing documentation of all harassment incidents
- Regularly reviewing the effectiveness of the district's efforts to correct and prevent harassment and proposing improvements
- Regularly assessing the adequacy of training for staff, administrators, students, and parents and proposing improvements
- Advising and assisting other personnel to properly handle complaints and reports of harassment
- Ensuring that top district officials are informed about harassment incidents and the adequacy of the school's response

The names, positions, addresses and telephone numbers of the compliance coordinator(s) should appear in all publications and postings of district policies and complaint procedures.

For additional recommendations, see Part II: Creating a Positive School Climate, page 35.

Federal statutes related to hate crimes

Federal law prohibits the intentional use of force or threat of force against a person because of his or her race, color, religion, or national origin for the purpose of interfering with the person's enrollment or attendance in any public school or college. Federal law also allows more severe penalties when persons convicted of federal crimes were motivated by bias against the "actual or perceived race, color, religion, national origin, gender, disability, or sexual orientation of any person."[12]

Work with law enforcement agencies to address and prevent hate crimes and civil rights violations

DEFINITION OF HATE CRIME. Depending on the jurisdiction, hate or bias crimes involve criminal acts in which the victims are selected based on characteristics such as race, national origin, ethnicity, sex/gender, religion, sexual orientation or disability. Bias crimes include both attacks on persons and on property. Typical hate crimes include threatening phone calls, hate mail, physical assault, threats of harm or violence, arson, vandalism, cross burnings, destruction of religious symbols, bombings and bomb threats. School officials should find out the specific definition of bias crimes established by their state and local governments. There is no bright line between hate crime and noncriminal harassment, and some incidents may include elements of both. For a summary of state hate crime laws, compiled by the Anti-Defamation League, see Appendix C.

No school district or community is immune from the damage that can be done by bias crime, and such crimes can happen even in schools with excellent reputations. Bias crimes that occur in school can create or exacerbate tensions that contribute to community-wide conflicts and civil disturbances. Bias offenses committed outside of school may quickly affect the school climate and relationships among students. Therefore, schools also need to be aware of incidents in the community and become involved in preventing and addressing them.

REFERRALS TO LAW ENFORCEMENT AUTHORITIES. School officials should contact law enforcement officials when hate crimes are committed or suspected on school property or in connection with off-site school activities. School officials should also contact law enforcement officials when they become aware of any criminal behavior that endangers the life or safety of students or other persons, whether or not the behavior occurs on school property or in school activities.

School officials should consider developing guidelines for referral of less serious incidents to appropriate authorities. Circumstances that may be considered in determining whether a referral is appropriate or necessary include the nature and seriousness of the conduct, whether a pattern of biased conduct is evident, and the risk that the conduct poses to the health, safety, or well-being of students, employees, and the public. For example, school officials should tell law enforcement officials about apparently less serious instances of harassment if these could lead to violent retaliation or serious confrontations outside of school.

Schools are encouraged to establish ongoing lines of communication with law enforcement agencies. Also, schools that have on-site security personnel should involve them in efforts to address and prevent hate crimes.

PRESERVATION OF EVIDENCE. School officials should balance the need to preserve the physical evidence of hate crimes for investigation and the need to minimize the exposure of students to harmful messages.[13] In addition to violating the school's disciplinary code or anti-harassment policies, certain kinds of graffiti may also be of interest to law enforcement agencies. Some law enforcement authorities recommend that evidence of graffiti be preserved for investigation when the graffiti is repetitive or persistent, is located in places

Assist victim to pursue law enforcement options

Schools should encourage student victims to notify the police or file criminal charges, where appropriate. Whether or not a student intends to file charges, the school should make its own law enforcement referral. Notification to the police by the student or the school does not relieve the school district of its obligation to investigate, make findings, and remedy the harassment insofar as school-related conduct is involved. To avoid compromising a criminal prosecution, schools should coordinate their activities with law enforcement authorities. Persons injured by harassment should be told about all methods of obtaining corrective action. These include the school's internal complaint procedures, criminal charges, and complaints with governmental and non-governmental agencies that address civil rights violations in schools.[14]

of high visibility, identifies particular targets, identifies the perpetrator, contains incitements to violence, threats or intimidation, and/or targets particular groups.[15] Use methods to reduce exposure to the offense which do not destroy the physical evidence, such as covering or concealing it. Photographing all instances of hate-motivated or harassing graffiti is a good practice, and, if a criminal violation is involved, the physical evidence should be preserved until the police approve removal.

CRISIS INTERVENTION PLANS. Crisis intervention plans should include methods of rumor control, media contacts, close and continuing communications with students, parents, and the community, and liaison with law enforcement agencies and experts in crisis management. For information on crisis avoidance and response strategies for schools and communities, see *Early Warning, Timely Response: A Guide to Safe Schools*, available at www.ed.gov/offices/OSERS/OSEP/earlywrn.html.

OCR ENFORCEMENT. School officials should inform members of the school community of the role of outside agencies in protecting students' civil rights. OCR investigates and resolves discrimination complaints, including complaints that schools have allowed or condoned sexual, racial or disability harassment. The vast majority of meritorious complaints filed with OCR are satisfactorily resolved through an agreement with the school district. If, however, resolution of such a complaint does not occur, OCR can bring an administrative hearing to suspend or terminate federal funds to a school district that refuses to correct discrimination. OCR can also refer such complaints to the United States Department of Justice, which can initiate a lawsuit to secure remedial action.

STATE AND LOCAL CIVIL RIGHTS AND EDUCATION LAWS. Acts of harassment may also violate state or local civil rights, anti-discrimination, or education laws. In addition to harassment based on race, national origin, sex, and disability, which is specifically covered by federal law and many state laws, some states have laws that prohibit harassment based on religion and sexual orientation. In some states, such as Massachusetts, the state attorney general is authorized to bring civil suits to enjoin future criminal and certain types of noncriminal civil rights violations with criminal sanctions for noncompliance. Some states have also enacted laws spelling out the steps that schools must take to prevent or address harassment. We strongly recommend that school districts contact the attorney general of their state, the state department of education, and county and municipal officials to determine what state and local requirements apply and what state and local remedies are available.

For additional recommendations, see Part II: Addressing Hate Crime, page 41.

Part II: Step-by-Step Guidance

- Developing the District's Written Anti-Harassment Policy
- Identifying and Responding to Incidents of Harassment
- Formal Complaint/Grievance Procedures
- Creating a School Climate that Supports Diversity
- Addressing Hate Crimes and Conflicts

Part II: Step-by-Step Guidance

Developing the District's Written Anti-Harassment Policy

A comprehensive approach for eliminating harassment includes developing and disseminating strong, written policies specifically prohibiting harassment. Policies should take into account the significant legal factors relevant to determining whether unlawful harassment has occurred and should be tailored to the needs of the particular school or school district.

COMPONENTS OF POLICY. The policy should do the following:[16]

- State the school's commitment to eliminate harassment
- Define all of the types of harassment covered by the policy, which may include harassment based on race, color, national origin, ethnicity, sex, disability, sexual orientation, and religion
- Include examples of the kinds of harassing behaviors covered
- Identify the kinds of activities and sites where prohibited conduct could occur
- Include standards for determining whether a hostile environment exists
- Identify the means the school will use to investigate incidents of harassment
- Specify that the school will take remedial action to stop the harassment and prevent recurrence
- Include specific procedures to address formal complaints of discrimination
- State the name and position of the employee(s) responsible for accepting and managing complaints of harassment and how to contact the individual(s)
- Require staff to report harassment about which they become aware
- Prohibit retaliation against persons who report harassment or participate in related proceedings

A district will need to decide whether to adopt one policy covering all types of unlawful harassment or separate policies covering the different bases of harassment. Small districts may find it more practical to develop one policy. If a district adopts more than one policy to cover different types of harassment, it should use the same grievance procedures for all harassment complaints to avoid confusion.

PROCESS OF POLICY DEVELOPMENT. The process for developing an anti-harassment policy can be used to educate all members of the school community about harassment and the tools for responding. Taking the following steps will help to demonstrate that the district is committed to vigorous enforcement of its policy:

- Seek the participation of all categories of persons affected by the policy in the development process
- Make sure that the individuals designated to develop the policy have sufficient time, training, and access to expertise to design a high-quality program
- Obtain comments from members of the community, the school's attorney, state agencies, and other persons and agencies knowledgeable about harassment and civil rights issues before finalizing the policy
- Plan a sequence of activities for implementing the district's policy effectively, including training
- Provide for review and updating of the district's policy on a regular basis
- Coordinate the district's anti-harassment policy with other district policies and procedures, especially student codes of conduct, personnel rules, and other nondiscrimination policies affecting students and employees

The points that should be included in the district's anti-harassment policy are discussed in the following pages.

State the school district's commitment to eliminating unlawful harassment

Policies should state the district's prohibition of harassment and its commitment to maintain an environment conducive to learning for all students.

EXAMPLE: It is the policy of the _____ School District to maintain a learning . . . environment that is free from religious, racial or sexual harassment. . . .The School District prohibits any form of religious, racial or sexual harassment and violence.

Source: Sample School Board Policy prepared by the Minnesota School Boards Association[17]

Include all harassment prohibited by federal, state, and local laws

COVERAGE UNDER FEDERAL AND STATE LAWS. At a minimum, the district's policy should cover harassment based on race, color, national origin, sex, and disability, because these types of harassment are forbidden by federal laws prohibiting discrimination by school districts receiving federal financial assistance. The district's policy should also cover other kinds of harassment, such as harassment based on sexual orientation or religion, as prohibited by state or local laws. The state department of education, the state attorney general, and municipal and county officials can provide information on state and local requirements.

ACADEMIC AND NONACADEMIC SETTINGS. As required by federal law, the policy should apply in all academic programs and extracurricular activities, including school-sponsored events away from school. Examples of settings in which prohibited harassment can occur include school classrooms and hallways, school buses, cafeterias, athletic competitions, field trips and cooperative work programs.

EMPLOYEES, STUDENTS, AND THIRD PARTIES. The policy should prohibit harassment by district employees and students.[18] In addition, the policy should explicitly cover harassment by third parties not directly subject to district control (i.e., persons who are not students or employees) when such persons are engaged in school-sponsored activities. Examples of third parties include audiences and competitors at interdistrict athletic competitions, service contractors, school visitors, and employees of businesses or organizations participating in cooperative work programs with the district.

Although the district may not be able to directly penalize harassers who are not employees or students, it must remedy and prevent a hostile environment in all of the programs and activities it sponsors.[19] If, for example, employees of businesses participating in cooperative work programs harass students, the district should require the business or organization to take immediate corrective action and monitor the situation to ensure that the action was effective. If corrective action is not taken, the district should suspend or terminate the relationship.

Define harassment based on race and national origin

Harassment based on race or national origin is oral, written, graphic or physical conduct relating to an individual's race, color, or national origin (including an individual's ancestry, country of origin, or country of origin of the student's parents, family members, or ancestors) that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the district's programs or activities.[20] Harassment of students because they are immigrants, speak another language, or have a foreign accent may constitute discrimination based on national origin or race or both, depending on the circumstances. A racial or national origin basis for acts of harassment may be evident from the explicit statements of the perpetrator or may be inferred from the surrounding circumstances. The kinds of circumstances tending to show racial or ethnic animosity or prejudice as a motivating factor for harassment are listed on page 42 of this Guide.

A hostile environment may be created by behaviors such as the following:

- Intimidation and implied or overt threats of physical violence motivated by race, color, or national origin

- Physical acts of aggression or assault upon another, or damage to another's property that is motivated by the individual's race, color, or national origin
- Depending on the circumstances and context, demeaning racial jokes, taunting, racial slurs and derogatory racial "nicknames," innuendos, or other negative or derogatory remarks of a racial nature or relating to national origin
- Depending on the circumstances and context, graffiti and/or slogans or visual displays such as cartoons or posters depicting racial/ethnic slurs or racially/ethnically derogatory sentiments
- Criminal offenses directed at persons because of their race or national origin

EXAMPLE: For purposes of this policy, racial harassment of a student consists of verbal or physical conduct relating to an individual's race or color when:

1. the harassing conduct is sufficiently severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity or creates an intimidating, threatening or abusive educational environment;

2. the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or

3. the harassing conduct otherwise adversely affects an individual's learning opportunities.

Source: Sample School Policy prepared by the Office of the Arizona Attorney General[22]

Define sexual harassment

Because there are some differences between this form of harassment and race/national origin harassment, a district's policy should have a separate definition of sexual harassment. Sexual harassment can take two forms, *quid pro quo* and *hostile environment.*

Quid pro quo sexual harassment occurs when a school district employee explicitly or implicitly conditions a student's participation in an education program or activity or bases an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature, whether or not the student submits to the conduct.

Hostile environment harassment occurs when unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature by another student, a school employee, or a third party are sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from an educational program or activity or to create a hostile or abusive educational environment. Sexual harassment includes conduct that is also criminal in nature such as rape, sexual assault, stalking, and similar offenses.

EXAMPLE: Sexual Harassment - Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct of a sexual nature when:

• Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of . . . obtaining an education; or

• Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's . . . education;

• That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's . . . education or creating an intimidating, hostile or offensive . . . educational environment.

Sexual harassment may include but is not limited to:

a. Unwelcome verbal harassment of a sexual nature or abuse;

b. Unwelcome pressure for sexual activity;

c. Unwelcome, sexually motivated or inappropriate patting, pinching, or physical contact;

d. Unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's . . . educational status;

e. Unwelcome behavior, verbal or written words or symbols directed at an individual because of gender;

f. the use of authority to emphasize the sexuality of a student in a manner that prevents or impairs that student's full enjoyment of educational benefits, climate or opportunities.

Source: Racial, Sexual, Religious/Ethnic Harassment and Violence Policy of the Legislative Rules of the West Virginia Board of Education[23]

HARASSMENT BY PERSON OF SAME SEX. Under federal law, sexual harassment is prohibited regardless of the sex of the harasser, i.e., sexual harassment may occur even if the harasser and the person being harassed are the same sex.[24]

SEXUAL HARASSMENT OF GAY AND LESBIAN STUDENTS. Sexual harassment directed at gay or lesbian students may constitute unlawful sexual harassment. For example, targeting a gay or lesbian student for physical, sexual advances may constitute sexual harassment. However, nonsexual harassing behavior directed at a student because of the student's sexual orientation does not constitute sexual harassment under the federal discrimination laws enforced by OCR. For example, heckling comments made to students because of their sexual orientation, such as "gay students are not welcome here," does not constitute sexual harassment under Title IX.[25]

State laws may explicitly bar harassment based on sexual orientation or treat it as prohibited sex discrimination. In addition, other federal, state, or local laws may apply to harassment based on sexual orientation if the behavior is criminal or violent in nature.

A district's policy may include a statement that harassing conduct of a sexual nature, which is otherwise prohibited, is not exempted based on the sex or sexual orientation of the harasser or target of harassment.

EXAMPLE: This [the prohibition against sexual harassment] applies whether the harassment is between people of the same or different gender.

Source: State of Vermont Model Anti-Harassment Policy

UNWELCOME SEXUAL CONDUCT. In order to constitute prohibited sexual harassment, the conduct must be unwelcome. Districts should carefully consider, however, whether sexual conduct between adult employees and students should ever be characterized as welcome by a student. OCR's interpretation of Title IX is that sexual conduct between an elementary age student and an adult employee may never be considered welcome. Further, such conduct between a secondary age student and an adult employee is presumptively unwelcome.[26] Some school districts have chosen to adopt policies that ban all sexual conduct between adult employees and students or deem it unwelcome.[27]

Policies may remind members of the school community that not all physical contact between employees and students constitutes prohibited sexual harassment.[28]

EXAMPLE: This prohibition [against sexual harassment] does not preclude legitimate, nonsexual physical contact such as the use of necessary restraints to avoid physical harm to persons or property, or conduct such as [a] teacher's consoling hug of a young student, or one student's demonstration of a sports move requiring contact with another student.

Source: Sample School Policy Prepared by the Office of the Arizona Attorney General

Sexual harassment, because of its nature and its prevalence in many schools, may warrant separate in-depth, age-appropriate training for all students, as well as staff. Training may cover the nature of sexual harassment, the damage that results from harassment, where students can find help, methods of opposing sexual harassment of oneself or others, and similar topics.

Define harassment based on disability

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 prohibit discrimination on the basis of disability by school districts receiving federal funds and by governmental entities, respectively. Harassment based on disability has not received as much public or legal attention as has racial and sexual harassment; however, disability related harassment is a form of impermissible discrimination.[29]

School districts are advised to include disability harassment in their policies and to consider such harassment under similar standards as are applicable to racial and sexual harassment. As in the case of racial and sexual harassment, the age of the harasser is an important element in determining whether prohibited harassment occurred and in selecting an appropriate remedy.

An example of possible disability harassment, that is not typical of other kinds of harassment, would occur where a person seeks to involve a student with disabilities in antisocial, dangerous or criminal activity where the student, because of disability, is unable to comprehend fully or consent to the activity.[30]

Explain that a hostile environment depends on the context in which the conduct occurs

TOTALITY OF CIRCUMSTANCES. To determine if particular conduct causes a hostile environment, a school will need to consider the conduct from both a subjective and objective perspective. In making this determination, all relevant circumstances should be considered, including the victim's age, race, sex, and disability status.

A hostile environment may be created even though the student does not suffer tangible harm, such as a drop in grades. For example, a hostile environment could be found where a student, with considerable effort, was able to continue to go to school and achieve good grades despite the difficulties caused by the harassing behavior.

Schools also need to look at the type of conduct involved. For instance, an isolated incident of name-calling among older students of the same age is unlikely, by itself, to establish a hostile environment as defined by federal law. However, a single incident of severe harassment that, for example, provokes fear of violence on the part of the target, could be sufficient to cause a hostile environment. Persistent, abusive racial or sexual slurs, even without physical contact, can also create a hostile environment, depending on the circumstances. As these examples indicate, determination of whether a hostile environment is created depends upon all of the relevant circumstances surrounding a particular incident of harassment, including its relationship to other incidents of harassment.[51]

School policies should include language recognizing that a finding of unlawful harassment depends upon the context of the behavior and all of the surrounding circumstances.

EXAMPLE: In determining whether alleged conduct constitutes a violation of this policy, the School District should consider the surrounding circumstances, the nature of the behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all of the facts and surrounding circumstances.

Source: Sample School Board Policy Prepared by the Minnesota School Boards Association

Even if objectionable conduct is determined not to be sufficiently severe, persistent, or pervasive to create a hostile environment, the district would be wise to take prompt action to appropriately address the behavior. The school's policy may contain guidance to school officials in this regard.

Define other types of harassment prohibited by state law or by district choice

Schools may adopt policies that prohibit harassment based on grounds not specifically provided for in federal anti-discrimination statutes, such as harassment based on religion or sexual orientation.

HARASSMENT BASED ON RELIGION. There is no federal statute that specifically requires school districts to address harassment of students on the basis of their religion or religious affiliation.[52] However, there may be instances in which harassment on the basis of religion or religious affiliation has elements of, or is combined with, discrimination based on race or national origin and can be addressed under laws prohibiting such discrimination. Many states have laws prohibiting discrimination on the basis of religion by school districts and other governmental agencies.

HARASSMENT BASED ON SEXUAL ORIENTATION. Some state and local laws may prohibit discrimination on the basis of sexual orientation. Also, under certain circumstances, courts have permitted a remedy for harassment on the basis of sexual orientation under other federal legal authority. For example, a 1996 federal court of appeals case held that a gay student could recover for discrimination based on both sex and sexual orientation under the Equal Protection Clause of the United States Constitution in a case in which school district officials allegedly failed to protect the student to the same extent that other students were protected from harassment due to the student's sex and sexual orientation.[53] School districts should consult appropriate state and local officials and legal counsel regarding the extent of their responsibility to address harassment of students based on sexual orientation.

Harassment and criminal conduct based on actual or perceived sexual orientation has been

recognized as a significant problem in many schools. School officials should consider whether adopting specific statements or policies regarding harassment based on sexual orientation will help to protect students from violence and damaging behavior of this sort.[54]

Specify procedures for accepting and responding to reports of harassment, including a formal complaint process

A district's written policies should contain enough information to guide school administrators and staff to respond appropriately to instances of harassment that are reported by students, parents, staff, or other persons. District policies may explicitly distinguish the different types of response mechanisms available and indicate when each should be used. Reporting and response mechanisms include disciplinary referrals, the formal discrimination complaint process (including interim steps to protect the victim), other administratively initiated investigations and inquiries, referral to outside criminal or civil authorities, and various types of informal resolution procedures.

As described in detail in Part II: Formal Complaint Procedures, the policy should contain or reference written complaint procedures (also termed "grievance procedures") that can be initiated by students and their parents to ensure complete examination of harassment claims. The policy should also identify the employees designated by the school to accept complaints and to supervise the complaint process and explain how these persons can be contacted.[55] The policy should indicate that, if harassment is found, immediate and appropriate action will be taken to stop the harassment and deter its recurrence. As further discussed in Part II: Identifying and Responding to Incidents of Harassment, the policy should also require staff to report incidents of harassment that they learn about or observe.

Prohibit retaliation against persons who report discrimination or participate in related proceedings

Federal law also prohibits retaliation against persons who report discrimination, including harassment, or participate in related proceedings.[56] The policy should tell students and staff that the school will take steps to try to prevent retaliation and will take strong responsive action if retaliation occurs. Staff should also be reminded that the names of targets of harassment and perpetrators and witnesses of harassment should be held in strict confidence, except as release is necessary to investigate specific incidents.

EXAMPLE: The School District will discipline or take appropriate action against any pupil, teacher, administrator, or other school personnel who retaliates against [or attempts to retaliate against] any person who reports alleged . . . harassment or violence, files a complaint of harassment, who testifies, assists or participates in any investigation, hearing or proceeding related to such harassment or violence. Retaliation includes but is not limited to any form of threat, intimidation, reprisal or discrimination.

Source: Sample School Board Policy of the Minnesota School Boards Association

Consider the First Amendment and freedom of speech

When regulating the conduct of students and teachers to prevent or address discrimination, a school must formulate, interpret, and apply its rules so as to protect constitutional rights. In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved. Federal civil rights laws are intended to protect students from discrimination, not to regulate the content of speech.

Whether or not speech or expression that is alleged to constitute harassment is protected by the First Amendment will generally depend upon the facts and context involved, including the type and timing of the speech, the nature of the forum in which the speech takes place, and the educational level and age of the students involved. Most First Amendment questions do not have stock solutions. Resolving situations in which First Amendment

questions arise requires careful weighing of all of the factual and legal considerations. OCR's Sexual Harassment Guidance, in particular, contains an analysis of the interplay of the protections of the First Amendment and the federal prohibition of harassment.

Schools should consult legal counsel if First Amendment concerns arise in the course of implementing the district's policy. To avoid potential conflicts with the First Amendment, make sure that training of administrators and staff includes First Amendment issues, that administrators and teachers know whom to consult about such issues, and that the district's regular student disciplinary policies are consistently enforced. Good training programs to sensitize students and staff to the harmful effects of thoughtless behavior will avoid many problems. A district's anti-harassment policy may contain a reminder to administrators and staff to apply the policy in a manner that complies with the First Amendment.

Part II: Step-by-Step Guidance

Identifying and Responding to Incidents of Harassment

A comprehensive program to prevent and eliminate harassment should include procedures for students to follow if they believe they have been subjected to harassment. In addition, each district should have in place explicit instructions (sometimes called "protocols") for employees to follow if they witness or otherwise learn of specific incidents. A district should also specify the actions school officials should take when they are informed of harassment. A repertoire of options, which consider the age of the student targets and perpetrators, are needed to respond properly and quickly to incidents of varying levels of severity, persistence, and pervasiveness.

Make sure that all administrators and staff understand when and how various response mechanisms should be used. OCR's experience is that noncompliance with federal laws prohibiting discrimination results in large part from the existence of procedures that, though "on the books," are virtually unknown to the majority of students, staff, and administrators. In other cases, the district's procedures for addressing allegations of harassment are not used because students and administrators incorrectly assume that the procedures are applicable only to the most severe instances of physical harm, but not to more common kinds of harassing behaviors. As a result, schools may not respond as required when there is a series of incidents in which each act of harassment, by itself, may not appear severe, but the acts of harassment cumulatively cause a hostile environment. A district's program for addressing incidents of harassment should include the following points.

Encourage students and parents to notify the district when harassment occurs

A key ingredient of an effective program is the ease with which students and parents can let school officials know of their concerns. Students who encounter harassment often feel confused and helpless.[55] Students need to feel comfortable approaching adults in the school about harassment and confident that remedial action will be taken in response.

Allow persons affected by harassment to report the harassment in more than one location to protect confidentiality and ensure impartiality. A good practice is for every building to have at least one person who has expertise in harassment issues to handle complaints of harassment. Encourage individuals of diverse backgrounds and both sexes to serve as complaint managers. Provide a simple form to minimize the need for lengthy written complaints, to focus attention on the critical elements, and to simplify periodic compilation of harassment incident reports.

Provide knowledgeable staff responses to reports of harassment

ADVISE VICTIM OF ALL OPTIONS. When students express concerns about possible harassment, staff should be prepared to counsel them accurately and appropriately about their options and to identify the employees designated to accept and act on reports of harassment. The complaint should be treated seriously without casting doubt on the complainant's motives. When sexual harassment or harassment based on actual or perceived sexual orientation is alleged, staff should be especially careful to avoid any implication that the student's own behavior invited or provoked the harassment. In order to treat harassment allegations appropriately, all staff, particularly equity coordinators, teachers, counselors, coaches, school nurses, school safety officers, hallway monitors, and administrators who are likely to be informed of harassment, may need specific training.

INTERVIEW VICTIM AND MAKE REQUIRED REPORTS. When harassment is reported, the victim or witness should be thoroughly interviewed about the harassment, and the information obtained should be recorded. A victim of severe harassment, such as a sexual assault, will also need to be interviewed by representatives of other agencies, such as police officers. It is a good idea to explain this to the victim and to try to avoid duplicative interviews by school officials.

Staff at every level should know which school officials to notify of the incident and how to convey such information. Immediate evaluation of the report at the appropriate level of administration will enable the district to evaluate the risks posed by the reported incident and to initiate appropriate response mechanisms. For example, if a potential crisis situation exists, measures such as those outlined in Part II: Addressing Hate Crime should be considered. Depending on the nature of the conduct, the school may need to issue a statement denouncing the harassment or activate rumor control and additional safety measures.

REQUESTS FOR CONFIDENTIALITY. If a student requests confidentiality or asks that no action be taken, the school should inform the student that the request may limit the school's ability to respond and should remind the student of its policies against retaliation. If the student continues to request confidentiality, the school should carefully consider if the request should be honored. Some complaints of harassment can be investigated and resolved without releasing the student's name. In other instances, the school may need to consider whether the confidentiality request will limit its ability to remedy the harassment, or if honoring the confidentiality request will make it difficult for an accused to adequately defend himself or herself.

OCR's Sexual Harassment Guidance encourages schools to honor a student's request that his or her name be withheld, if this can be done consistent with the school's obligation to remedy the harassment and to prevent further harassment of other students. At the same time, the school should evaluate the request in the context of the school's responsibility to provide a safe and nondiscriminatory environment for all students. Factors that may be considered in determining whether the school should honor the request for confidentiality include the age of the student, the seriousness of the alleged harassment, whether there have been other reports of harassment by the alleged harasser, the possibility of harm to other students, and the rights of the accused individual to receive information about the accuser, if a formal proceeding may result. The school should be especially careful in evaluating confidentiality requests accompanying complaints of conduct that may endanger the student or other persons. Schools should explain to students that they may not be able to honor such a request in situations where the student, or other students, are at risk. In any event, schools should seek advice from legal counsel prior to releasing the name of a student, without consent, as the Family Educational Rights and Privacy Act (FERPA) may apply.[39]

Even where not requested, confidentiality regarding the person reporting the harassment should be maintained as long as doing so does not preclude the school from responding effectively. The confidentiality of the injured party, the alleged harasser and any witnesses should be maintained unless release is required to resolve the matter. School districts should notify the parents or guardian of students who allege harassment when the best interests of the student so require. In making a decision as to whether to notify a student's parent or guardian, staff should consider all of the circumstances, including the age and wishes of the student. For example, a student experiencing harassment based on sexual orientation may be dissuaded from reporting the harassment if the student's parent will be notified.

INTERIM PROTECTION. Interim action to protect the target of harassment, such as separation of the parties, may be necessary even before completion of an investigation. An immediate referral to sources of victim assistance, such as a school social worker, psychologist, counselor, or outside agency may be warranted. Persons reporting harassment should be reminded of the rules against retaliation and of the procedures in place for protecting the student from reprisal, including specific information on reporting any retaliation.

Harassment because of association

Recognize that persons who are not themselves members of the group singled out by the harasser's animosity may be harassed. For example, a hostile environment may be created for students who are harassed because of their association with individuals who are members of such groups.

UNWRITTEN REPORTS AND COMPLAINTS. A district should respond to all incidents of reported harassment, even if the student does not wish to file a formal or written complaint. A district should respond to complaints and reports of harassment that are brought to its attention not only by the students who are the immediate targets of harassment, but by student witnesses and parents or guardians and friends of affected students. All reports of harassment and the school's response should be carefully documented.

Require employees to report harassment and to intervene to stop it

REQUIRED REPORTING. The absence of student complaints does not mean that harassment in a school is not occurring. Harassment can be expected to be a part of the school environment unless all school staff are required to report instances of harassment that they are told about or observe themselves. Staff who witness, overhear, or are told about harassment should be told to report such incidents to an official with the authority to take corrective action.

The directive that staff report harassment may be included in the district's written harassment policy and procedures or addressed separately in written personnel policies. In either event, the policy should state the consequences to employees of failing to follow the district's reporting requirements. As in the case of harassment alleged by students and parents, harassment reported by staff must be investigated promptly and responsive action taken.

INTERVENTION TO STOP HARASSMENT. Make clear to staff and building administrators the types of harassment concerns which they should handle themselves and the types which should be handled at a higher level. The school district should train staff how to stop harassment that occurs in their presence. In order for district and school officials to discern patterns of harassment and identify repeat offenders, all incidents should be reported to a district coordinator, including incidents that teachers have handled themselves. Teachers who suspect harassment, but have not observed it or been told about it, should discuss their concerns with the student and, if harassment by an adult is suspected, report it immediately.

MONITOR DISCIPLINE REFERRALS. Some incidents of harassment may come to the school's attention as a result of fights or other misconduct on the part of the target of the harassment as well as the harasser. For example, when racial, ethnic or similar slurs are used in or before a fight between persons of different groups, school officials should determine whether any aspect of the event or the precipitating circumstances are covered by the district's anti-harassment policies. If so, the responses outlined here should be considered and, if appropriate, used.

On-the-spot responses by school staff

The lack of a strong, immediate response by a teacher or administrator who is aware of the harassment may be perceived by a student as approval of the activity or as an indication that the student deserves the harassment.

MONITOR THE SCHOOL ENVIRONMENT. School administrators may request staff to periodically examine particular environments or activities and report their observations. Harassment more commonly occurs in less supervised or structured settings such as recess, school buses, locker rooms, and hallways. Harassment may also more frequently occur in settings in which only a few students of a certain group are present, such as girls enrolled in a vocational education course.

Custodial staff should be reminded to tell school officials when they find graffiti related to race, national origin, sex, disability, or other kinds of slurs that are of concern to the district, such as slurs related to sexual orientation and religion. In such instances, provide clear instructions regarding removal. (See Part II: Addressing Hate Crime for information regarding preservation of evidence for investigation.)

Also, sexual harassment among students may be so widespread that, without substantial training and regular reminders, neither students nor teachers are likely to report it. Regular monitoring of the school environment will produce information that the school can use to develop prevention strategies.

Make appropriate law enforcement referrals

When school officials receive a complaint or report of harassment that is criminal in nature or that could lead to in-school or out-of-school violence, law enforcement authorities should be alerted immediately. Districts should make known to appropriate administrators the specific types of harassment activity that should be reported to law enforcement authorities. It is advisable to put this policy in writing. A district may wish to designate a particular individual to screen all reports and complaints of harassment to determine if law enforcement officials should be notified. See Part II: Addressing Hate Crime for a full discussion of the circumstances in which incidents of harassment should be reported to law enforcement authorities.

School officials should advise students and their parents of available law enforcement options and sources of outside help. For example, in some states the attorney general might be able to obtain an injunction against further criminal and noncriminal civil rights violations. If the civil rights violation recurs, the perpetrator would be subject to enhanced penalties. Where appropriate, school officials should assist the student or parent to pursue the appropriate relief. However, a law enforcement referral or pursuit of law enforcement remedies by the victim does not alleviate the district's responsibilities to investigate the allegations of in-school harassment and take remedial action.

Investigate all reports of harassment

TYPES OF INVESTIGATION. All reports of harassment should be promptly investigated. The investigation should be undertaken by persons not likely to encounter a conflict of interest.

The type of response and the procedures to be used may depend on a number of factors: whether the report of the incident came from the targeted student or from an observer, such as a teacher; whether the student or parent wishes to file a formal grievance; the reporter's desire for confidentiality; the seriousness of the incident; whether the alleged harasser is a student or employee; the age of the students involved; and whether only an isolated incident is involved or the incident might be part of a pattern of harassment. Related incidents could include other instances in which the target was harassed, either by the same or a different person; instances in which the alleged harasser targeted other students; and instances of harassment, by other perpetrators, directed toward members of the target's group.

A district will probably use its usual procedures for investigating and penalizing student misconduct when a staff person observes specific acts of harassment by one student against another student. When a student or parent files a written complaint, the procedures discussed in Part II: Formal Complaint Procedures should be followed. An informal process of mediation may be appropriate, as long as the parties understand all of the options for resolution.

When a student reports harassment, but refuses to file a written complaint, schools should, at a minimum, initiate an administrative inquiry to determine if other persons are affected and if corrective action is needed. For example, if a

student athlete reports racial harassment on a sports team from teammates, but refuses to file a complaint even after being informed about the district's complaint procedures and prohibition against retaliation, an administrator can still conduct an inquiry to determine whether the team's supervision is adequate and appropriate and identify and address any factors contributing to the reported concerns.

It is advisable for the district's anti-harassment policy or a written protocol to set forth the options for responding to reports of harassment. A chart can be useful to outline the alternative methods of response and the steps involved in each alternative.

SCOPE OF INVESTIGATION. All investigations and inquiries should attempt to identify all of the perpetrators and victims; determine whether there are other related incidents of harassment; identify and evaluate the kinds of present and future damage that may have been caused by the harassment, including harm to the victim, the harasser, and the school environment; and consider all of the other factors necessary for complete corrective action.

Take prompt remedial action appropriate to the offense and the age and identity of the parties

IMMEDIATE, APPROPRIATE CORRECTIVE ACTION. Remedial action by the district should be taken as soon as possible and take into account the severity of the incident and the age and identity of the person harassed and the harasser. Whether the harasser is a student or employee, remedial steps, including discipline, where appropriate, should be calculated to stop the specific harassment and prevent recurrence. If harassment continues, stronger responses should be employed. Schools should consider all of the kinds of actions that will be necessary to fully address the specific problems experienced at the institution as a result of the harassment.

REMEDYING HARASSMENT BY STUDENTS. Where a student commits harassment, punishment of the student is often appropriate. Punishment of the harasser sends a message to the victim and other students that harassment is a serious violation of school rules.

In some school districts, policies against discriminatory harassment will provide for disciplinary sanctions. If the district's anti-harassment policy does not itself contain penalties for harassing behaviors, the policy should cross-reference other policies of the district such as the student discipline code. When a violation of the district's anti-harassment policy occurs, officials may then use the student discipline code to punish conduct under offense categories such as vandalism, obscene or vulgar language, theft, assault, or unwelcome physical contact. The discipline code may contain enhanced penalties for such offenses when the misconduct is motivated by bias. Even if the discipline code does not explicitly provide for enhanced penalties, the punishment administered under the discipline code should be consistent with the severity of the misconduct and consider the extent of harm to the victim and the school community. The discipline code may also identify specific offenses, such as harassment that results in discrimination or a hostile environment based on race, sex, disability, or other specified bases of discrimination.

Districts should be sure that their disciplinary procedures adequately provide for discipline of students who commit unlawful harassment. For example, some schools may have policies that could make it more difficult to punish students for certain offenses unless an adult observed the conduct.

If appropriate, consider that the harasser, as well as the target of the harassment, may need help. An offender counseling program or restitution program may help perpetrators dispel stereotypes, prejudices, fears, ignorance and other contributors to harassment. It may be appropriate to involve the perpetrator in efforts to repair the damage caused by the harassment.

REMEDYING HARASSMENT BY STUDENTS WITH DISABILITIES. Harassment by students with disabilities must also be stopped and recurrence prevented. Schools may use some disciplinary sanctions with such students; however, the corrective action used must be consistent with the laws governing discipline of students with disabilities.[41] In addition, where the student offender's harassing behavior is related to the disability, schools may utilize their evaluation and placement procedures to

consider whether a change in the student's placement or individual education plan is appropriate.

REMEDYING HARASSMENT BY STAFF. When an employee commits harassment, districts should consider the advisability of various kinds of remedial action. The district should be sure that its personnel policies, collective bargaining agreements, and staff codes of conduct are adequate to deal with unlawful harassment by teachers, administrators, and other employees, including provisions for discipline or removal.[41] Where a district employee perpetrates harassment, an apology by the district may be in order. Offender rehabilitation programs may be appropriate. Repeated or serious instances of harassment generally warrant stringent sanctions.

RESTORE A NONDISCRIMINATORY ENVIRONMENT FOR THE VICTIM OF HARASSMENT. Other kinds of remedial action that may be necessary or appropriate to prevent additional incidents of harassment by students or employees include regular observation of the victim's classes and activities; changes in the activity in which the harassment occurred, including increased adult supervision or video monitoring; a transfer or change of school or class assignment for the harasser; exclusion of the harasser from particular extracurricular activities; increased parent involvement; and required sensitivity training, counseling, an apology, community service, and psychological or medical assessment of the harasser.

Even when the district does not know who is responsible for harassment, the district should take reasonable steps to remedy it. For example, if the perpetrator of graffiti cannot be identified, the district can seek to locate new graffiti and remove it (or cover it up and preserve as evidence, as appropriate). Further, the district should consider instituting oversight mechanisms to help it to identify the perpetrator if the graffiti reappears.

The person reporting the harassment should be informed when the district has taken remedial action. Privacy laws may prevent the district from telling the complainant of any sanctions imposed.[42] However, the complainant should be assured that, while the district cannot guarantee the student's safety, the corrective action is calculated to deter future harassment. Tell the complainant how to report any future incidents, and inform the complainant of any changes in procedure or supervision that will be made.

EMOTIONAL AND PSYCHOLOGICAL SUPPORT. Students experiencing harassment may continue to suffer psychological problems, including impaired self-esteem, even after the harassment has ended. Encourage the student and the student's parents to consider treatment, where appropriate. The target of the harassment should be offered school services, such as counseling, or referred to publicly available sources of victim assistance, such as rape crisis centers, state victim assistance agencies, and other victims service agencies in police departments, mental health agencies, and prosecutors' offices.

INSTITUTIONAL REMEDIES. Consider the need for institutional remedies or changes, particularly where a pattern of harassment exists. Institutional remedies could include increased supervision, additional training of students and staff, changes in

Carefully evaluate requests by victim to transfer to another class or school

The burden of ending the harassment should not be placed on the victim. For example, transfer of the victim to another class or school to stop the harassment is rarely appropriate, unless specifically requested by the student. The school should evaluate any such requests to make sure the student understands that other options exist to end the harassment. If the victim nevertheless prefers to be transferred, the school must take steps to prevent repeated acts of harassment by the perpetrator against other students.

classroom or other school procedures, statements of nondiscrimination issued by school officials, and initiation of curricular and extracurricular programs to reduce prejudice and conflict.[11]

If the district has not been successful in stopping or remedying the harassment using existing options, changes may be needed in other district policies or commitments, such as the discipline code, personnel policies, and collective bargaining agreements.

If the conduct was not sufficiently severe, pervasive, or persistent to violate the district's anti-harassment policy, the district should still consider action geared to address the target's concerns to prevent recurrence and indicate that unlawful harassment will not be tolerated. Consider use of an informal resolution process, such as mediation, or the application of other district policies, such as the discipline code, to the acts in question. Also consider whether further sensitivity training is needed for all students in the environment in which the objectionable conduct occurred.

Part II: Step-by-Step Guidance

Formal Complaint/Grievance Procedures

As explained in the prior section of this Guide, Identifying and Responding to Incidents of Harassment, schools should establish appropriate and effective methods of responding to all reported or suspected incidents of harassment. This section addresses the formal complaint procedures that should be used when students or parents file formal complaints alleging district responsibility for harassment or the failure by the school to properly respond to previously reported incidents.[41]

FEDERAL REQUIREMENTS. The regulations implementing federal laws prohibiting sex and disability discrimination require districts to adopt and implement complaint procedures (also termed "grievance procedures") that provide due process protections.[42] The regulations prohibiting racial discrimination do not contain a similar explicit requirement. However, whether or not a particular statute or regulation explicitly requires grievance procedures, the availability of formal grievance procedures helps to assure that the district will respond properly to allegations of harassment. The specific procedures discussed in this chapter are intended to comply with federal law, where applicable, and will, in many instances, facilitate an appropriate and effective response to all allegations of harassment.

Federal law permits districts to use their discrimination complaint procedures for complaints of harassment, as well as for other kinds of discrimination. However, it is recommended that districts develop and employ complaint procedures tailored to allegations of harassment. Designing a complaint or grievance procedure that functions effectively to address complaints of harassment takes knowledge of a district's administrative and staff resources, an understanding of typical student behavior and concerns, attention to logistical details, and familiarity with the kinds of harm which the targets of harassment are likely to experience. Examples of grievance procedures developed to address reports of harassment are given in Appendix A of this Guide.

Grievance procedures applicable to discrimination, including allegations of harassment, should contain the following components.

Notify all members of the school community of the grievance procedures

PUBLICIZE THE PROCEDURES. A complaint procedure that no one knows about is a problem! Determine whether students, staff, and administrators are knowledgeable about the grievance procedures and whether they are perceived as effective mechanisms to stop harassment of students. Publicize the procedures to students, parents, teachers, administrators, and other employees, including information on how and where complaints may be filed. Pertinent information about the complaint procedures can also be provided in languages other than English. Like the district's anti-harassment policies, the complaint procedure should apply to complaints alleging harassment by employees, agents, other students, or third parties.

COMMUNICATIONS WITH PERSONS WITH DISABILITIES. Make sure that information about complaint procedures is effectively communicated to persons with disabilities. The regulation implementing Title II of the Americans with Disabilities Act requires public entities (such as public school districts) to ensure that their communications with participants and members of the public with disabilities are as effective as their communications with others.[43] This may include providing information in alternative formats, such as Braille and large print.

REVIEW PAST EFFORTS. It can be helpful for a district to review the frequency and manner in which its grievance procedures have been used in

Practical considerations in developing grievance procedures

- How many levels will the procedure have, and what will be the time frame for each level
- Who may file complaints on behalf of the injured party
- Whether investigations should be conducted by building administrators, other building staff, or district-level officials
- Which individuals should be designated and trained to conduct investigations
- Whether an evidentiary hearing should be part of the procedure
- Whether and how to allow attorneys, representatives, and advocates to participate in the process
- What standard of proof is applicable
- What is the relationship of the complaint procedures to informal resolution procedures, and under what circumstances may an informal resolution procedure be used
- What is the relationship of the complaint procedures to student and staff disciplinary proceedings
- Whether district-level administrators should review the investigator's decision in all instances or only when the decision is appealed
- Whether different investigative procedures should apply to complaints of harassment by an employee or by another student
- What is the relationship of the harassment grievance procedure to district procedures for contesting other kinds of alleged discrimination

For examples of formal complaint procedures resolving some of these issues, see Appendix A of this Guide.

the past. This review is key to determine whether the grievance procedures have functioned successfully to address claims of harassment and, if not, why not. Checklists are available for evaluating district grievance procedures.[47]

Specify the process for filing complaints

FILING A FORMAL COMPLAINT. As explained in this Guide, to ensure that discrimination has not occurred, districts should investigate all complaints and reports of harassment, whether or not the complaint is in writing. Districts may require a written complaint to initiate the *formal* grievance procedure. Persons complaining of harassment should always be informed about the complaint procedures and encouraged to file a formal complaint; persons possibly interested in filing a formal complaint should be given assistance in completing the necessary statement or form. Even if an official complaint is not filed, the district may choose to use the specific investigatory procedure set forth by its formal grievance procedures. Use of these procedures will ensure that all relevant evidence is obtained and all critical elements addressed.

Experts recommend that complainants be allowed to file complaints in more than one location to protect confidentiality and impartiality. The procedure should allow ample time for students to file complaints after the incident occurred, recognizing that students who are traumatized by an incident may not tell anyone about it immediately. Persons with disabilities must be furnished auxiliary aids and services to enable them to file a complaint and participate effectively throughout the complaint process.[48]

Provide adequate, reliable, and impartial investigation of complaints

SELECTING AND TRAINING INVESTIGATORS. The most effective complaint procedures designate specific individuals to investigate harassment complaints and hold them accountable for high quality results. No one should be appointed to investigate a complaint who may encounter the possibility of a conflict of interest. In no case should the person accused of harassment, retaliation, or failure to address a previously reported concern be assigned to investigate a complaint. If possible, designate an official who has not had any prior involvement in investigating or resolving the matter.

Provide sufficient training to personnel who will investigate complaints. Training should cover instruction in appropriate investigative techniques and procedures, the harm caused to students as a result of harassment, the legal standards applicable to harassment determinations, the amount of proof required, treatment of hearsay evidence, and the sanctions and remedies available. Training can also promote sensitivity to issues of culture, language, gender, and disability. The individual assigned should be careful not to become an advocate for any party. Persons assigned to investigate or coordinate complaints should be given enough time to handle them thoroughly and may need access to legal counsel.

INVESTIGATIVE PROCEDURES. Investigation of harassment complaints should be thorough and include the opportunity for the parties to present witnesses and other evidence. A written investigative guide may be helpful. Useful topics include planning the investigation, interview techniques and safeguards, making credibility determinations where different versions of the events are given, locating witnesses, keeping appropriate records, and timeliness considerations.

If the district develops detailed instructions for the operation of the complaint process, these may be set forth in a separate document or appendix to the written grievance procedure.

If a complaining party, witness, or alleged perpetrator does not speak English adequately, appropriate measures should be taken. Also, consider whether student advocates and other representatives should be allowed in the process. It is a good idea to provide both the alleged victim and harasser with a written statement of procedural rights.

DUE PROCESS RIGHTS OF THE ALLEGED HARASSER. Harassment investigations should be conducted in a manner consistent with applicable due process rights of the alleged perpetrator under the United States Constitution as well as other protections afforded by state laws, collective bargaining agreements, and institutional policies, such as staff and student handbooks. However, schools should ensure that steps to accord due process rights do not restrict or unnecessarily delay adequate relief to the complainant or injured party.[50]

PROTECTION OF CONFIDENTIAL INFORMATION. Make clear that personal information regarding the complainant, the alleged harasser and the witnesses will be protected from disclosure to the extent permitted by the investigative process and the nature of the complaint. Privacy laws preclude a school from releasing certain personal information about students.[51] For a discussion of the factors that schools may consider in determining whether to honor a request for confidentiality, see page 24 of this Guide.

Resolve complaints promptly, issue findings, and take remedial action

TIME FRAMES. It will be helpful to designate time frames for the major stages of the complaint process. The district's procedure might designate a short time frame and allow extensions in exceptional cases with the approval of the superintendent.[52]

FINDINGS. Policies should require that the school determine whether the alleged acts of harassment occurred and whether that conduct constitutes a violation of the district's policy. Making and recording findings as to whether unlawful harassment occurred is critical whenever a formal complaint is filed. In this way, the complainant and the district are assured that the matter was fully investigated and that careful deliberations occurred.

If the conduct at issue is not found to be sufficiently severe, pervasive, or persistent to violate the district's policy, the district should still consider action geared to address the complainant's concerns. This will reassure the student that concerns related to perceived harassment are taken seriously and will help prevent repetition or escalation of any offensive behavior. If an appeal is provided for, provide training to the person(s) who will decide the appeal and include time frames for the decision. An appeal may be allowed for both the findings and remedy selected.

CORRECTIVE ACTION. Remedial action should be tailored to address fully the specific problems experienced at the institution as a result of the harassment. Remedial action should take into account the severity of the incident and the age of the parties and should be calculated to stop the specific harassment and prevent recurrence. See Part II: Identifying and Responding to Incidents of Harassment, at pages 27-29, for additional information on remedies.

The Family Educational Rights and Privacy Act (FERPA) and its regulations preclude a school from releasing certain personal information about students.[53] This may prevent the school from telling a complainant about the sanctions imposed on the perpetrator of harassment. However, the complainant should be assured that the corrective action taken is calculated to deter future harassment; if possible, the complainant should be told of any monitoring mechanisms put in place to prevent recurrence.[54]

Protect the rights of the parties when an informal resolution process is used

Under federal policy, districts should informally resolve discrimination complaints, including complaints of harassment, only if the parties, after full notice of their rights, agree to do so. However, the complaining party should always be given the option of terminating the informal process and proceeding with a formal investigation. The district should consider whether there are instances in which informal mechanisms for resolution should not be used, for example, complaints of harassment of students by employees, complaints in which other students are also apparent victims, complaints that indicate possible threats to the safety of the complainant or other persons, and complaints of harassment that continued or reoccurred after previous informal resolution attempts. (For further information regarding use of informal resolution procedures, see OCR's Sexual Harassment Guidance, 62 Federal Register 12034 at 12045.)

EXAMPLE OF POLICY LANGUAGE ALLOWING INFORMAL RESOLUTION OF COMPLAINTS:

It may be possible to resolve a complaint through a voluntary conversation between the complaining student and the alleged harasser which is facilitated by a school employee or by a designated harassment complaint official. . . . Both the complaining student and the alleged harasser may be accompanied by a person of their choice for support and guidance. If the complaining student and the alleged harasser feel that a resolution has been achieved, then the conversation may remain confidential and no further action needs to be taken. The results of an informal resolution shall be reported by the facilitator, in writing, to the Superintendent and to the School Principal. If the complaining student, the alleged harasser, or the school employee/harassment complaint official chooses not to utilize the informal procedure, or feels that the informal procedure is inadequate or has been unsuccessful, s/he may proceed to the formal procedure. Any complaint against a school employee shall be handled through the formal procedure.

Source: State of Vermont Model Anti-Harassment Policy

Part II: Step-by-Step Guidance

Creating a Supportive School Climate that Appreciates Racial, Cultural, and Other Forms of Diversity

By themselves, written anti-harassment policies and complaint procedures will not stop or prevent harassment. Bona fide efforts to eliminate harassment from the school's programs and activities require planning, coordination, training, accountability, and supervision. Broader educational efforts are typically necessary to establish an environment that respects individual differences and promotes appreciation of racial and cultural diversity. Instructional and student activity programs provide schools with the opportunity to heighten students' awareness of the dangers of prejudice and harassment, ameliorate antagonisms or fears, counteract stereotypes, enrich student relationships, and prepare students to be positive participants in a diverse adult society.

The following activities are crucial to establishing a climate that deters harassment and supports positive responses to diversity.

Provide ample information about the anti-harassment program

PUBLICIZE THE POLICY. Adequate notification to the school community of the district's anti-harassment policy and grievance procedure is crucial to effective enforcement. For the district's policy and procedures to be viewed as standard practice, they must be widely and regularly disseminated. The school district should consider publicizing the adoption of the policy in school assemblies, in the news media, and in public events. Relevant policies and procedures should be made available in alternative formats for individuals with disabilities and provided, in a meaningful manner, for persons who are not proficient in the English language.

POST A SUMMARY. A short summary of the district's anti-harassment policy and complaint procedure, written in easy to understand language, might be regularly printed in district publications, including student publications and special pamphlets, and be posted prominently at each school. This summary should identify the forms of harassment prohibited by the district, specify the personnel to contact for further information, and explain the availability of the grievance procedures.

EXPLAIN THE PROCEDURES. Fully explain to students, parents, and staff how to identify prohibited harassment and how to use the complaint procedures. New students and their parents as well as new staff should be specifically notified of these policies and procedures. In addition, the district should consider the best ways to remind students, parents, and staff of the availability of the procedures and to instruct students and staff on their application in age-appropriate ways. Consider ways in which community centers, health providers, social service and child welfare agencies, and juvenile and police authorities can be notified about the district's policies and procedures.

Invest in training of school board members, administrators, and staff

PROVIDE TRAINING APPROPRIATE FOR ROLE. Introductory and ongoing training of all school employees and agents that is appropriate to their role in the district's program is essential to an effective program. School board members should receive training as the district begins to assess its need to adopt or modify its anti-harassment policy and procedures. School staff, including coaches and school security officers, should receive information and training on the policies and procedures as soon

Notify third parties of their obligations

Make sure that third parties covered by the district's anti-harassment policy are notified of its provisions, including operators of job training sites, vendors, contractors, and school visitors.

as they are adopted through staff meetings, staff orientation, and similar activities. Non-instructional staff should receive training appropriate for their functions. For example, bus drivers and bus aides should receive training on ways to report, correct and prevent harassment on transportation routes. Staff most likely to be told by students about harassment, such as equity coordinators, counselors, social workers, school security officers, school nurses, and school disciplinarians, should receive special training.

TRAIN EMPLOYEES TO INVESTIGATE COMPLAINTS. Personnel designated to handle harassment complaints and all school disciplinarians should receive extensive training on investigating and resolving harassment complaints and concerns. Supervisors may need specialized training in dealing with situations in which employees are alleged to have harassed students.

TRAIN STAFF TO STOP HARASSMENT. When possible, staff should receive training focused on different types of harassment, e.g., sexual harassment, harassment based on race or national origin, and harassment based on disability. Most training materials are geared toward one of these broad types of harassment, as each type involves unique features and different victims and perpetrators. Training should include methods for on-the-spot intervention to stop and prevent harassment.

EDUCATE EMPLOYEES ON DIVERSITY PRINCIPLES. In addition to training specifically designed for implementing an anti-harassment program, the district should consider diversity education as part of its long-term training and professional development program. Look for opportunities to deepen the understanding of teachers and other employees of diverse cultural attitudes and behaviors, racial and sex stereotyping, and the types of problems faced by students at school and in the community. Staff should be trained to provide curricular and extracurricular programs and activities for students that reduce prejudice and resolve conflicts. The district may wish to invest in in-depth training of selected individuals to develop expertise and serve as resources for the district. Numerous resources are available that can help districts to meet these needs.

Educate students about harassment and discrimination, and involve them in prevention activities

STUDENT RIGHTS AND RESPONSIBILITIES. In addition to publicizing their policies and procedures, districts usually need to educate students regarding their basic rights and responsibilities. Training should enable students to identify harassment, understand its causes and effects, learn methods of opposing harassment, and feel more comfortable reporting instances of harassment. Separate training sessions may be devoted to different types of harassment.

PREJUDICE REDUCTION CURRICULA. Districts should also consider more extensive educational programs that sensitize students to diversity issues, foster understanding of others' points of view, and help students to overcome misconceptions and biases. Include prejudice reduction and sexual respect concepts in the regular curriculum. Use curricular materials and visual displays in school that present positive, unbiased images of individuals from diverse backgrounds. Numerous, excellent materials and curricula on sexual harassment and prejudice reduction are available from many sources without charge. For sources of such programs, see Appendix E of this Guide.

STUDENT ACTIVITY AND MEDIATION PROGRAMS. Involve concerned students, includ-

ing student leaders, in activities geared to making harassment socially unacceptable and to foster social interaction of diverse groups outside of the classroom. Some observers have noted that a more positive school climate for all students can come about through routine, open communications between students and school officials regarding issues of harassment and discrimination.

Some school districts have successfully trained students as mediators to resolve personal conflicts. Train student mediators about harassment issues. Carefully consider whether it is appropriate to use student mediators in cases of alleged sexual harassment. Foster student leadership clubs and peer education activities to address persistent and pervasive negative attitudes and behavior.[50] Participate in national and regional organizations that support conferences and other efforts by middle and high school students to combat prejudice and intolerance in their own schools.

Implement monitoring programs and prevention strategies

ASSESS CONCERNS. To determine the district's need for various kinds of programs and activities and to assess the effectiveness of the programs adopted, a district or school self-assessment is necessary. Tools for self-assessment include questionnaires to be completed by students, parents and staff, on a voluntary and anonymous basis. Such questionnaires will help to expose underlying conflicts among students, including possible antipathy toward recent immigrants; the frequency and severity of sexual harassment; perceived inequities in treatment by school personnel; and other underlying attitudes and stereotypes which, if not addressed, can lead to students dropping out of school, discipline difficulties, reduced academic achievement, and instances of racial or sexual violence. Parent permission is advisable if students are questioned about their experiences and attitudes. School districts should consult with legal counsel before conducting a formal survey of student opinions and experiences. Alternatively, convene open meetings at which students and parents can voice their concerns.

CONSISTENTLY ENFORCE DISCIPLINE RULES. Districts should consider the relevance of their overall discipline policies to the maintenance of a positive school climate for all students. Creation and consistent enforcement of disciplinary rules forbidding obscenity, disrespectful language, vandalism, and harassment offers a means of protecting students from harassment of all kinds, of setting an appropriate tone in the schools, and of punishing acts of racial and sexual harassment that, looked at alone, may not rise to the level of prohibited conduct under the district's anti-harassment policy. Make sure that discipline rules are fairly applied without regard to race, national origin, sex, or other discriminatory factors.

EXAMINE THE SCHOOL ENVIRONMENT. Regular, focused observation of school activities and environments, especially less structured settings like school hallways and school buses, will identify harassment that staff may neglect to report. It is possible that, in some instances, harassment may be so widespread that no one actually reports it. Periodically examine the school site and furniture for racially and sexually derogatory graffiti.

Monitor possible trouble spots in the school for incidents of hostility and harassment. For example, ensure that students of racial and national origin minority groups and both sexes who drop out of courses and activities in which they are underrepresented have not been subjected to harassment.

APPLY PREVENTION STRATEGIES. Discuss with faculty advisors and student leaders involved in school plays, newspapers, elections, and yearbooks the harm that can result from thoughtless jokes or ridicule and ways to avoid needless damage to the school environment.

Some schools have adopted instructional intervention programs to handle relatively minor incidents of conflict or harassment that stem from ignorance or misunderstanding and that might better be considered opportunities for teaching appropriate behavior rather than punishment. Consider whether the district could benefit from such approaches.

Many sources of expertise are available without charge, including the agencies and organizations

Define compliance coordinator's duties

Functions of the compliance coordinator generally include: (1) informing top school officials of complaints and reports of harassment; (2) investigating complaints and/or advising and assisting other personnel to handle complaints and reports of harassment properly; (3) maintaining and analyzing documentation of all harassment incidents covered by the anti-harassment policy; (4) regularly reviewing the effectiveness of the district's efforts to correct and prevent harassment and proposing improvements; and (5) regularly assessing the effectiveness of training for staff, administrators, students, and parents and proposing improvements.

listed in Appendix D. Observe or obtain information about promising practices in other schools.

Involve parents and community members in anti-harassment efforts

Establish community partnership programs to combat harassment and prejudice in the school and community and consider workshops and other activities to increase parent and family involvement.

Use materials such as plays, speakers, films and videos to help the school community understand harassment and the consequences of failing to overcome it. Use materials appropriate to the age, family relationship, language and culture of the reader. Materials are available, often without charge, from the sources listed in this Guide.

Appoint one or more employees to coordinate district's anti-harassment activities

LEGAL REQUIREMENTS. The regulations implementing Title IX, Section 504, and Title II of the ADA require school districts to appoint an employee to coordinate the district's compliance under these statutes.[59] The regulations require that the name, address, and telephone number of the coordinator be periodically announced in district publications. The appointment and training of one or more skillful coordinators will be key to the success of the district's anti-harassment program.

Although not required by federal law, consider the appointment of an individual to coordinate the district's activities to address racial and national origin discrimination, and other types of harassment and discrimination covered by the district's policy.

The district should expect the coordinator(s) to take an active part in promoting nondiscrimination and developing or coordinating strategies to prevent and correct harassment. Consider appointing an administrator with known interest and expertise in the area. If the coordinator is not knowledgeable in the area, substantial training should be provided.

Consider the advantages and disadvantages to appointing personnel to serve as coordinator in more than one area of harassment. Consider diversity factors, time constraints, personal interest and expertise, possible joint activities, and similar factors.

Make sure that the coordinators have adequate time and support to effectively execute their duties and that the coordinators are encouraged and allowed to share information regarding district needs with district administration.

Maintain an adequate record-keeping system, and regularly evaluate the data collected

In order to ensure that its policies and procedures are consistently followed, a school will normally need to create and maintain documentation of all harassment incidents, including notations as to how the harassment was addressed. The record-keeping system should be sufficient to allow the district to monitor district schools for repetition of harassing behaviors and to determine if institutional remedies are needed to address patterns of harassment and prevent future incidents.

The system of documentation should incorporate all incidents of harassment that come to the

Fully document all instances of suspected harassment

Documentation of harassment incidents should include the name, age, race, national origin, sex, and disability status, as relevant, of the victims and harassers, the names of witnesses, a description of the incident, information on the severity of the incident, when and where the incident occurred, the relationship of the incident to other incidents of harassment, the names of personnel conducting the investigation, any findings made, and any corrective action taken. Harassment may be related to more than one prohibited basis, e.g., race and national origin or sex and race. In such instances, all bases of the harassment should be recorded.

district's attention, not only formal complaints of harassment.

The record-keeping system should be centralized and kept in a secure place. Records may also be kept in a secure location at the building level for ready reference by authorized persons. Specific individuals should be assigned and trained to maintain the records involved. A written description of the record-keeping system may be helpful.

Districts should consider establishing a process to track and analyze harassment reports and to regularly evaluate all aspects of the district's anti-harassment program. The review could be assigned to the compliance coordinator. A committee of employees, parents, and others, including the coordinator, could also perform this function; however, care must be taken not to reveal personal information about the individuals involved in the incidents to unauthorized persons. Data regarding the frequency, severity and types of harassment occurring, staff compliance with the policy, and effectiveness of various remedial actions should be reviewed. The review should be followed by specific actions to address any shortcomings identified. Although the goal of an effective anti-harassment program is to prevent or reduce the incidence of harassing behaviors, schools should anticipate that, due to the heightened awareness of the school community, a new anti-harassment program may result in an increased incidence of reports and complaints.

Part II: Step-by-Step Guidance

Addressing Hate Crimes and Conflicts in School and in the Community

This section provides specific information to help school districts respond to and prevent hate crimes that may occur at school or involve members of the school community.

HATE OR BIAS CRIME. For purposes of this Guide, the term "hate or bias crime" is used to describe an offense against persons or property motivated by hate or bias against a victim based on race, ethnicity, national origin, religion, sex, disability, or sexual orientation.[60] Violence motivated by such factors seriously threatens the values of the school and the larger community and the physical safety and mental well-being of all of those affected. Examples of hate-motivated crime include threatening phone calls, defacing or destroying personal property or buildings, hate mail, bomb threats, other threats of physical harm and intimidation, physical assault, arson, vandalism, cross-burnings, and destruction of religious symbols. Other incidents of harassment, such as racial epithets or graffiti, that occur at school, are also of interest to law enforcement agencies, as well as to school officials, because of their potential for causing dangerous confrontation, disruption of order and public safety, and violent retaliation outside of school property or school hours.

SEXUAL OFFENSES. Serious incidents of sexual harassment, such as rape, stalking, and sexual molestation will also violate criminal laws and pose similar challenges to school officials. Depending on the circumstances of a particular case, a sexual offense might also meet the definition of a bias crime in some jurisdictions.

The following are steps that districts should take to confront and eliminate hate crimes and other incidents of harassment and confrontation that threaten public safety, involve multiple persons as targets or perpetrators, generate community tensions, or disrupt school order and discipline.

Identify the hate crime laws that apply in the school's jurisdiction

LAWS AGAINST BIAS CRIME AND PENALTY ENHANCEMENT STATUTES. As of October 1997, forty-one states and the District of Columbia have enacted laws against bias-motivated violence and intimidation.[61] Even in the absence of state laws identifying particular bias crimes, severe harassment is likely to constitute violations of other offenses contained in criminal codes, such as assault and battery, threatening behavior, theft, and destruction of property.

Congress has also enacted federal laws that provide both criminal and civil remedies to victims of bias-motivated crimes. One of these federal criminal civil rights statutes, 18 U.S.C. § 245, prohibits the intentional interference, by force or threat of force, with certain federally protected activities, including enrollment in public schools, where the interference is motivated by discrimination on the basis of race, color, religion or national origin. This law also protects individuals who are helping others obtain an equal opportunity for a public education.

Federal law also allows more severe penalties when other federal offenses are motivated by bias. Section 280003 of Public Law 103-322, 28 U.S.C. § 994, provides for increased penalties for persons convicted of federal crimes when the victims were selected "because of the actual or perceived race, color, religion, national origin, gender, disability, or sexual orientation of any person."

Consult the state attorney general and local prosecutor and police department to determine the types of bias incidents recognized as criminal offenses in the state, county and municipality in which the district is located. Also determine the definitions of other criminal offenses that may be applicable to harassing conduct. The definitions

Indicators that criminal acts might be motivated by discrimination[62]

- Attacks in which the victim and perpetrator are of a different race, religion, national origin, gender, or sexual orientation, especially a pattern of such attacks
- A perception by the victim that the perpetrator was motivated by bias
- Victim's known association with activities relating to his or her race, ethnicity, religion, disability, sex, or sexual orientation (for example, attacks on participants in Black History Month programs)
- Prior or recent news coverage of similar bias incidents
- Hostile acts directed against members of groups whose presence in the area is opposed, or when the group is small in number
- Manner and the means of attack, for example, violent attacks or beatings without another apparent motive
- Use of language and symbols of ethnic hate such as swastikas and burning crosses, racial and ethnic slurs, the color of paint, and the spelling of words
- Ongoing neighborhood or community conflicts or problems that may have initiated or contributed to the act, for example, bias incidents that may provoke retaliation
- Possible involvement by an organized hate group, as shown by contemporaneous circulation of printed literature or organized hate activity in the area

should be widely disseminated and may be included in the district's policy. For an overview of hate crime laws in the United States, see the chart of State Hate Crimes Statutory Provisions, compiled by the Anti-Defamation League, at Appendix C.

Like bias crimes, sexual offenses should trigger close cooperation with law enforcement agencies. Definitions of these offenses should be made available to appropriate school officials.

Recognize bias-motivated crime and violence

School administrators should learn to recognize typical indicators of crimes against persons or property that appear to be motivated by bias so that they can alert law enforcement officers to the possible nature of the offense. Screening of all disciplinary incidents to identify such indicators may be warranted in some schools.

Contact law enforcement personnel, as appropriate

REFERRALS TO LAW ENFORCEMENT AGENCIES. School officials should contact law enforcement officials when hate crimes are committed or suspected on school property or in connection with off-site school activities. School officials should also contact law enforcement officials when they become aware of information indicating that any criminal behavior is occurring or is imminent that threatens the life or safety of students or other persons, whether or not the behavior relates to school property or activities.

School officials should also make referrals when less serious incidents occur. Circumstances that should be considered in determining whether a referral is advisable include the nature and seriousness of the conduct and the risk that the conduct poses to the health, safety, or well-being of students, employees, and the public. School officials should remember that prosecutors and police may have information and techniques that may help to

Preserve evidence for investigation

Balance the need to preserve the physical evidence of hate crime for investigation with the duty to minimize the exposure of students to harmful messages. Investigation may identify the perpetrator and determine if a hate group may be involved. Cover or conceal graffiti or other evidence of hate crimes while contacting law enforcement authorities to reduce the chance that students will see it. Photographing all instances of hate-motivated or harassing graffiti is a good practice, and, if a criminal violation is involved, the physical evidence should be preserved until the police approve removal.

identify the perpetrators, to determine the motivation for the incident, and to assess the possibility that violent retaliation or escalation may occur.

Referrals can be made even if information is insufficient for a formal charge. Referrals can also be made when a pattern of incidents at school becomes apparent. Referrals can be made to child protection units, juvenile authorities, police departments, and prosecutors, as appropriate. Schools should determine whether the attorney general of their state, a state or local civil rights agency, or other non-police agencies also accept referrals of bias incidents for investigation and remediation or can provide assistance to school officials or victims.

VANDALISM AND GRAFFITI. In addition to violating the school's disciplinary code or anti-harassment policies, certain kinds of graffiti may also be of interest to law enforcement agencies. Graffiti can violate state laws against vandalism, malicious destruction of property, threats and intimidation, and hate-motivated offenses. For example, law enforcement agencies recommend that evidence of graffiti be preserved for investigation when the graffiti is repetitive or persistent, is located in places of high visibility, identifies particular targets, identifies the perpetrator, contains incitements to violence, threats or intimidation, and/or targets particular groups.[63]

FILING CRIMINAL CHARGES. Schools should help any student who is a victim of a crime to file charges and support the student throughout and following court proceedings. A referral for law enforcement or filing of criminal charges by a student victim does not relieve the school district of its obligation to investigate, make findings, and remedy the harassment charged insofar as school-related conduct is involved. For example, if a teacher is alleged to have sexually abused a student, the school is responsible for investigating, stopping, and preventing recurrence of the harassment even if criminal charges are also filed. Also, a student who files criminal charges regarding a sexual assault occurring off-site may be retaliated against in school by harassing conduct by friends of the alleged offender. In this instance, the school would be responsible for investigating and stopping the retaliatory harassment.

Where related criminal charges are filed, the school's investigation should be coordinated with any law enforcement activity. In the rare instances in which the school may be asked to delay a full inquiry to avoid compromising a police investigation, the school should take steps to protect the safety of the victim and other persons affected and to prevent retaliation against those assisting in the investigation.

RETALIATION. Since it is common for perpetrators and their friends and associates to take retaliatory action against students who file charges, including charges of sexual assault, it is crucial that the school institute measures that are reasonably calculated to prevent retaliation against the student victim. At a minimum, schools should make sure that the harassed students and their parents know how to report any subsequent problems and should make follow-up inquiries to see if there have been any new incidents of harassment or any retaliation.

Components of a crisis intervention plan[64]

- Designation of crisis intervention team members
- Procedures for convening emergency meetings and consultations
- System for gathering and disseminating information about the situation, including procedures for communicating with the media
- Possible strategies for assessing and controlling the situation, including changes in school hours or days, expanded homerooms, classroom discussions
- Names and phone numbers of professional mediators or experts in diffusing conflict[65]
- Methods of obtaining and discreetly using additional security
- Continuing, frequent contacts with the persons or groups targeted by the harassment to reassure them of their safety and importance to the district and inform them of the steps being taken
- Procedures for periodic contact with other interested parties
- Counseling for all affected persons, as appropriate
- Initiation of long-term solutions, such as curriculum additions and changes, relationships with outside organizations, a speakers' program, town forums, and additional ways of demonstrating respect for diversity

Prepare for crisis situations

Schools should have crisis intervention plans in place for addressing incidents that may provoke widespread concern. Even nonviolent incidents that occur in public places and involve multiple parties, such as racial name-calling at athletic events, can generate intense public and media interest. Identify persons including administrators, teachers, student leaders, and other students who should be prepared to address media concerns, police liaison, rumor control, safety, and similar needs.

Coordinate the school's anti-harassment activities with the larger community

Because schools do not operate in isolation from the community, bias crimes or incidents committed outside of school can quickly affect the school climate and relationships among students. Incidents within schools can lead to retaliation or confrontations outside of school. For these reasons, schools need to cooperate with, or create, community-wide coalitions of law enforcement, social service, civic, religious, governmental, and education agencies to coordinate prevention efforts and responses to hate crimes.

School officials should establish clear lines of communication with law enforcement agencies to cooperate in preventing and addressing bias crimes. School officials should request that police departments inform the school when there is a possibility of violence or conflicts that could affect the school environment so that precautions can be taken. Both the school and the police agency can designate specific individuals to consult with each other periodically and when incidents arise. Regularly scheduled meetings between designated school and police officials are recommended. Consider the adoption of a memorandum of understanding with police departments and prosecutors.

Be aware of and follow applicable federal, state and local reporting procedures

In 1990, Congress passed the Hate Crime Statistics Act, which directed the Attorney General of the United States to publish data about crimes that

Components of a memorandum of understanding with law enforcement agencies[68]

- Designation of liaison personnel
- Mission statement
- Summary of relevant state laws
- Standards and procedures outlining when incidents should be referred for law enforcement investigation or consultation
- Appropriate ways of preserving evidence for investigation
- Quick responses by law enforcement agents
- Arrest procedures
- Availability of protective services, legal advice, and training from the prosecutor's office and police department
- Provisions covering police conduct and appearance at school to minimize disruption to the education environment

"manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity."[66] The data are collected from state and local law enforcement agencies on a voluntary basis. Although this law has since expired, the FBI ordered data collection to continue. As of October 1997, twenty-three states and the District of Columbia have mandated or requested the collection of such data.[67] State and local reporting procedures may apply to schools. For example, as of 1995, the state of California required schools to report school crime statistics to the state Department of Education.

Enforce the district's anti-harassment policies consistently and vigorously

Enforcement of the district's anti-harassment policies and procedures as described in this manual will greatly help to forestall more violent acts. Many preventable hate crimes originate in seemingly minor incidents of racial, national origin, and sexual harassment. Make sure that school security officers are thoroughly trained in the school's anti-harassment policies and procedures.

Schools should make sure that their efforts to prevent and address bias crime do not discriminate on the basis of race, national origin, ethnicity, sex, sexual orientation, religion, or disability.

Evaluate the district's past responses to serious bias incidents and consider how the response could have been improved. Identify and monitor activities and locations in which trouble is likely to occur. Contact experts in the field before a crisis situation occurs. Numerous training programs and written materials are available from the sources listed in Appendix D.

The suggestions made elsewhere in this Gaide regarding the need for conflict resolution and prejudice reduction programs in school apply equally here. Curricula used to promote positive responses to diversity should include information on hate or bias crimes.

Working Together

No school official can possibly accomplish the elimination of harassment and hate crime without a strong, continuing partnership with staff, parents, students, and the community. Your school or school district, OCR's national and field offices, other components of the U.S. Department of Education, your state board of education, your state attorney general, the National Association of Attorneys General, your collective bargaining organization, and local law enforcement agencies must all support each other by pooling our knowledge and experience and sharing new ideas and solutions as we become more adept in pursuing our goal. By working and learning together, we can strive to eliminate harassment and violence from our schools and our society.

"All life is interrelated. All people are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly. Injustice anywhere is a threat to justice everywhere." Martin Luther King, Jr., Speech at Birmingham Jail, 1963.

Notes

1. Discrimination based on race, color or national origin in programs or activities receiving federal financial assistance is prohibited by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; discrimination based on sex or gender in educational programs or activities receiving such assistance is prohibited by Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* Discrimination based on disability in programs or activities receiving federal financial assistance is prohibited by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and, as to all public entities, by Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12134. Regulations issued by the United States Department of Education implementing Title VI, Title IX, and Section 504, respectively, can be found at 34 C.F.R. Part 100, 34 C.F.R. Part 106, and 34 C.F.R. Part 104. These regulations can also be found through OCR's website at www.ed.gov/offices/OCR. For regulations implementing Title II of the ADA, see 28 C.F.R. Part 35.

2. There is an increasing awareness among school officials of the frequency and severity of harassment of students who are, or are perceived to be, gay or lesbian. Schools should consider whether there is a need to include harassment based expressly on sexual orientation in their anti-harassment programs. Harassment on the basis of sexual orientation may violate state discrimination laws or the U.S. Constitution. As described on page 19 of this Guide, a recent holding of the Seventh Circuit Court of Appeals, *Nabozny v. Podlesny*, 92 F.3d 446 (7th Cir. 1996), allowed a lawsuit for damages under the United States Constitution against a school district where school officials allegedly failed to protect a gay student from harassment to the same extent as other students because of his sex and sexual orientation. Of course, gay and lesbian students can also be targets of sexual harassment. See page 18 for a discussion of sexual harassment of gay and lesbian students. See also Part II of this Guide, Addressing Hate Crime, for a discussion of state and federal criminal laws that may be relevant to certain kinds of bias motivated incidents.

3. See surveys cited in "Abolishing Harassment," *Equity Coalition*, Programs for Educational Opportunity, University of Michigan School of Education (Spring 1996).

4. OCR has published in the Federal Register two guidance documents regarding illegal harassment. These are the "Office for Civil Rights; Sexual Harassment Guidance; Harassment of Students by School Employees, Other Students, or Third Parties; Notice," 62 Federal Register 12034 (March 13, 1997), referred to herein as OCR's Sexual Harassment Guidance; and the "Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance; Notice," 59 Federal Register 11448 (March 10, 1994), referred to herein as OCR's Racial Harassment Guidance. Both documents can be found through OCR's website at www.ed.gov/offices/OCR.

5. While federal anti-discrimination laws make school districts responsible for remedying harassment of students, these laws do not specifically require written policies specifically addressing harassment. However, the adoption, dissemination, and enforcement of such policies is likely to deter harassment and will help to show that the district does not tolerate or condone such harassment. In addition, federal regulations promulgated under Title IX,

Section 504, and Title II of the Americans with Disabilities Act (ADA) specifically require schools to regularly notify students, parents, and employees that the school does not discriminate on the basis of sex and disability, to implement and disseminate prompt and equitable complaint procedures for handling allegations of discrimination, and to designate an employee responsible for coordinating compliance with these laws. Discrimination under these laws includes harassment as outlined in this Guide.

6. Privacy laws may restrict the school from releasing the names of the persons involved in some incidents of harassment. See pages 28 and 34 of this Guide and notes 39 and 42 for information on privacy provisions.

7. See 34 C.F.R. 106.8, 34 C.F.R. 104.7, and 28 C.F.R. 35.107 regarding federal requirements for complaint procedures.

8. See page 24 of this Guide for further discussion of the extent to which schools should honor a request for confidentiality by the victim of harassment.

9. For further discussion of the restrictions on information that may be released to a complainant, see page 28 and 34 of this Guide.

10. See Deborah Byrnes, " 'Teacher, they called me a _____!', Confronting Prejudice and Discrimination in the Classroom," (1995), a publication of the Utah State Office of Education and the Anti-Defamation League.

11. See 34 C.F.R. 104.7 and 34 C.F.R. 106.8, requiring the designation of employees to coordinate compliance with Section 504 and Title IX respectively. A similar requirement is part of the regulations implementing the Americans with Disabilities Act at 28 C.F.R. 35.107.

12. See 18 U.S.C. § 245, prohibiting interference with federally protected activities, and 28 U.S.C. § 994, containing a penalty enhancement provision.

13. See the model Memorandum of Understanding, reprinted at Appendix A, recommended by the Office of the New Jersey Attorney General, to promote cooperation among local districts, county prosecutors, and local police departments in investigating suspected hate crimes and hate-motivated graffiti and protecting students from the effects of such incidents.

14. See Appendix B, "Erasing Hate -- A Guide to Your Civil Rights in School" for an example of the array of governmental and non-governmental sources of assistance available to students.

15. These factors for determining when graffiti should be preserved for law enforcement investigations are used by the University of Massachusetts - Amherst in accordance with Massachusetts law.

16. See note 5, explaining the treatment of anti-harassment policies under federal civil rights laws.

17. All references to harassment of employees have been omitted from this example and from all of the policy excerpts cited in this Guide.

18. Recent decisions of the United States Supreme Court have affirmed that Title IX affords students protection against sexual harassment by school employees and other students. In *Davis v. Monroe County Board of Education*, 119 S.Ct. 1661 (1999), and *Gebser v. Lago Vista Independent School District*, 106 U.S. 1223 (1998), the Supreme Court

held that federal law imposes a responsibility on schools to respond to harassment committed by school employees and other students. In the context of a private lawsuit seeking money damages, the Supreme Court held that schools may be liable to a student who suffers harassment when the school is aware of the harassment but is deliberately indifferent to it. The Court explained in *Davis* that school officials will be deemed "deliberately indifferent" where their "response to the harassment or lack thereof is clearly unreasonable in light of the known circumstances." 119 S.Ct. 1674.

In addition, as indicated in footnote 4 above, OCR has issued two guidance documents, the Sexual Harassment Guidance and the Racial Harassment Guidance, that explain the standards OCR uses to address complaints of a sexually or racially hostile environment. OCR has determined that it would be useful to issue an update of the 1997 Sexual Harassment Guidance to further address Title IX's regulatory requirements in light of the recent Supreme Court cases.

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19. The question of harassment by persons who are neither students nor employees of the school is discussed in the OCR's Sexual Harassment Guidance at 62 Federal Register 12040.

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20. See OCR's Guidance on Racial Incidents, applying Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and its implementing regulation, 34 C.F.R. Part 100.

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21. Language in the Model Policy of the Vermont Board of Education states: "Harassment on the basis of national origin is unwelcome verbal, written, or physical conduct, directed at the characteristics of a person's national origin, such as negative comments regarding surnames, manner of speaking, customs, language or ethnic slurs."

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22. Other samples of language defining racial and national origin harassment are contained in school policies in Appendix A.

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23. The West Virginia Rules also define "sexual violence" as "a physical act of aggression or force or the threat of force" to accomplish intimate physical contact.

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24. For further discussion regarding same sex harassment under Title IX, see OCR's Sexual Harassment Guidance, 62 Federal Register 12039 and corresponding footnotes. After the Guidance was published, the United States Supreme Court confirmed that workplace harassment can violate the sex discrimination provision of Title VII of the Civil Rights Act when the harasser and harassed employee are of the same sex. *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998).

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25. See OCR's Sexual Harassment Guidance, 62 Federal Register 12039, for a discussion of sexual harassment of gay and lesbian students.

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26. See OCR's Sexual Harassment Guidance, 62 Federal Register 12040, for a discussion of the concept of welcomeness as applied to sexual conduct between school employees and students.

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27. For an example of language barring sexual conduct between employees and students, see the Rules of the West Virginia Board of Education stating: "Amorous relationships between staff members and students are prohibited and staff members violating this prohibition shall be subject to . . . [disciplinary action]."

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28. See OCR's Sexual Harassment Guidance, 62 Federal Register 12034, 12038, stating that Title IX's prohibition against sexual harassment does not extend to legitimate non-

sexual touching or other nonsexual conduct, e.g., a high school athletic coach hugging a student who has made a goal.

29. See *Guckenberger v. Boston University*, 957 F. Supp. 306, 313-316 (D.Mass. 1997), holding that the Americans with Disabilities Act and Section 504 proscribe harassment based on disability, when such harassment has the purpose or effect of unreasonably interfering with a student's performance or of creating an intimidating, hostile or offensive learning environment. See also *Doe v. Marshall*, 882 F. Supp. 1504, 1507 (E.D. Penn. 1995), holding that harassment based on disability by a professor against a college student could violate Section 504 and the ADA. OCR has investigated numerous complaints of disability related harassment.

30. The State of Vermont's Model Policy describes disability harassment as including: "conduct . . . directed at the characteristics of a person's disabling condition, such as imitating manner of speech or movement, or interference with necessary equipment."

31. OCR's Sexual Harassment Guidance, 62 Federal Register 12034, 12041-42, lists the following factors to consider in evaluating whether acts of harassment are sufficiently severe, persistent or pervasive to establish a hostile environment: the age of the victim(s) and, where relevant, of the harasser; the identity and relationship of the alleged harasser and the target of the harassment; the degree to which the conduct affected one or more students' education; the number of harassers and the number of victims; the nature and type of harassment, including the extent of hostility shown; the frequency and duration of the conduct; the location or situation in which the incident occurred, particularly whether the incident occurred in a captive, confined, or enclosed environment; the size of the school and the number of persons aware of the incident; the occurrence of other harassing incidents at the school or in the school-related activity and whether or not the same individuals were involved.

32. Guidelines on religious expression in public schools were issued by the U.S. Department of Education in June 1998. These are available at www.ed.gov/Speeches/08-1995/religion.html.

33. See *Nabozny v. Podlesny*, 92 F.3d 446 (7th Cir. 1996).

34. For example, the State of Vermont prohibits harassment based on sexual orientation. The example of harassing behavior based on sexual orientation given in the Vermont Department of Education's Model Policy is "unwelcome verbal, written, or physical conduct, directed at the characteristics of a person's sexual orientation, such as negative name calling and imitating behaviors."

35. The regulations implementing Title IX, Section 504, and Title II of the ADA require notice of the individual responsible for coordinating compliance, including receiving complaints.

36. Retaliation is prohibited by the Title VI regulation at 34 C.F.R. 100.7(e). The regulations implementing Title IX and Section 504 have incorporated this prohibition against retaliation. See 34 C.F.R. 106.71 and 34 C.F.R. 104.61.

37. See OCR's Sexual Harassment Guidance, 62 Federal Register 12045 - 12046, for discussion of the First Amendment. In addition, some of the cases that address restrictions on student speech and expression in elementary and secondary schools include *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260, 266 (1988) (school restrictions on high school newspaper); *Bethel School District No. 403 v. Fraser*, 478 U.S. 675, 682, 683 (1986) (indecent

Notes

speech at school assembly); *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 506 (1969) (student armbands to express an opinion on national policy); *Phillips v. Anderson County School Dist. Five*, 987 F. Supp. 488, 493 (D.S.C. 1997) (restrictions on student clothing displaying or wearing the Confederate flag); and *Denno v. School Bd. of Volusia County*, 959 F. Supp. 1481, 1485 (M.D. Fla. 1997) (display of Confederate flag).

38. See, e.g., "Tune in to Your Rights . . . A Guide for Teenagers about Turning Off Sexual Harassment," published by the Programs for Educational Opportunity, University of Michigan in 1985, which describes some feelings of adolescents experiencing sexual harassment.

39. FERPA, 20 U.S.C. § 1232g, will apply where information about harassment is contained in an educational record. See OCR's Sexual Harassment Guidance, 62 Federal Register 12037 and 12043, for a discussion of confidentiality requests. See also 62 Federal Register 12050, note 80, describing the application of FERPA in this context.

40. See the Individuals with Disabilities Education Act, as amended in 1997, 20 U.S.C. § 1400. OCR's policy interpreting Section 504 also specifies prerequisites to the use of certain disciplinary measures with students with disabilities. Anti-harassment policies can remind school officials of the requirements applicable to the discipline of students with disabilities. For example, the State of Vermont's Model Anti-Harassment Policy provides: "Action taken for violation of this policy shall be consistent with the requirements of any applicable collective bargaining agreement, Supervisory Union, and/or School District policy, state and federal law, including but not limited to the due process protections for students with disabilities."

41. When investigating and remedying harassment, school districts need to pay attention to the procedural rights of the alleged harasser. See page 33 of this Guide for information in this regard.

42. The U.S. Department of Education interprets the Family Educational Rights and Privacy Act (FERPA) to prohibit elementary and secondary school districts from releasing information regarding any disciplinary actions taken against students who are found to have harassed other students except where the action directly affects another student, such as an order requiring the harasser not to have contact with the target. See OCR's Sexual Harassment Guidance at 62 Federal Register 12037-12038. Although FERPA does not apply to release of records pertaining to staff who have been found to have harassed students, state laws may be applicable to such records.

43. In this regard the Rules of the West Virginia Board of Education require: "The head of the agency or the agency's governing board shall also initiate such other action as is appropriate to ease tensions and to affirm the values of respect and understanding. . . ."

44. For an extensive discussion of grievance procedures to address complaints of discrimination, see "Title IX Grievance Procedures: An Introductory Manual," published by U.S. Department of Education, Office for Civil Rights (2nd ed. 1987). OCR's Sexual Harassment Guidance, at 62 Federal Register 12034, 12044 - 12045, contains specific guidance regarding necessary components of a complaint or grievance procedure. See 34 C.F.R. 106.8, 34 C.F.R. 104.7, and 28 C.F.R. 35.107.

45. See 34 C.F.R. 106.8, 34 C.F.R. 104.7, and 28 C.F.R. 35.107. OCR's Sexual Harassment Guidance, at 62 Federal Register 12034, 12044 - 12045, contains specific guidance regarding necessary components of a complaint or grievance procedure.

46. See the regulations implementing the Americans with Disabilities Act (ADA) of 1990, at 28 C.F.R. 35.160(a), and Section 504 of the Rehabilitation Act of 1973, at 34 C.F.R. Part 104. Under the ADA, a public entity, such as a public school, is to furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate. 28 C.F.R. 35.160(b)(1). In determining what type of auxiliary aid or service is necessary, the ADA requires a public entity to give primary consideration to the requests of the individual involved. 28 C.F.R. 35.160(b)(2). See also the regulations implementing Title III of the ADA, which are applicable to public accommodations, including many private schools, requiring similar efforts to accommodate persons with disabilities.

47. An example of a checklist for reviewing discrimination grievance procedures can be found in Appendix B of this Guide.

48. See note 46 for specific citations to the ADA and Section 504 regulations applicable to required auxiliary aids and services to persons with disabilities.

49. See Appendix B for specific information that may be helpful for training persons appointed to investigate harassment complaints.

50. OCR's Sexual Harassment Guidance at 62 Federal Register 12045 and 12050, footnote 80, contains a discussion of the procedural rights of persons accused of harassment.

51. See notes 39 and 42 regarding the effect of privacy restrictions.

52. The Model Anti-harassment Policy of the State of Vermont, Department of Education, recommends a 14-day time frame for investigation of harassment complaints.

53. For regulations implementing FERPA, 20 U.S.C. § 1232g, see 34 C.F.R. Part 99.

54. See notes 39 and 42 regarding the effect of privacy restrictions.

55. See Robert Croninger, "Racial Harassment in Education," *Equity Coalition*, Programs for Educational Opportunity, University of Michigan (Spring 1996).

56. For a detailed description of nearly 20 student leadership and peer education programs intended to strengthen relationships among students of different races and backgrounds and to deter sex discrimination and harassment, see the Summer 1998 issue of NCSEE News, a publication of the National Coalition for Sex Equity in Education.

57. Threatening or discriminatory graffiti should be photographed to assist in identifying the perpetrators and determining if hate groups may be involved.

58. For example, the Howard County Public Schools in Maryland trains teachers and students in identifying "signal incidents" as "teachable moments."

59. See note 11 for the specific regulations requiring appointment of a compliance coordinator under Title IX, Section 504, and the ADA.

60. This definition comes from "Healing the Hate - A National Bias Crime Prevention Curriculum for Middle Schools," published by the Education Development Center, Inc., with funds from the Office of Juvenile Justice and Delinquency Prevention (1997). See also "A Policymaker's Guide to Hate Crimes," published by the Bureau of Justice Assistance, U.S. Department of Justice (March 1997).

Notes

61. Data compiled by the Anti-Defamation League. See also earlier figures published in "A Policymaker's Guide to Hate Crimes," Bureau of Justice Assistance, U.S. Department of Justice (March 1997).

62. See Bulletin No. 36, Attachment B, of the Los Angeles Unified Public School District (April 24, 1995).

63. See notes 13 and 15 for the sources of this information regarding preservation of evidence.

64. These components are mentioned in "Not in Our School, a Rapid Response Guide for Minnesota Schools to Incidents of Hate-Based Violence," from the Office of the Minnesota Attorney General.

65. The Community Relations Service of the U.S. Department of Justice and the other agencies listed in Appendix D may be able to mediate volatile conflicts.

66. For additional information on reporting provisions, see "A Policymaker's Guide to Hate Crimes," Bureau of Justice Assistance, U.S. Department of Justice (March 1997).

67. Data compiled by the Civil Rights Division of the Massachusetts Office of the Attorney General and the Anti-Defamation League.

68. See New Jersey's model "Memorandum of Understanding Between Education and Law Enforcement Officials" (June 1993) at Appendix A.

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Appendix A: Sample School Policies

- Arizona Sample School Policy Prohibiting Harassment and Violence
- Minnesota Sample School Board Policy Prohibiting Harassment and Violence
- Vermont Model Anti-Harassment Policy
- Legislative Rules of the Board of Education of West Virginia
- Model Memorandum of Understanding between New Jersey Education and Law Enforcement Officials
- Comprehensive Plan of the Edmonds (WA) School District

Arizona Sample School Policy Prohibiting Harassment and Violence

Prepared by the Office of the Attorney General

I. GENERAL STATEMENT OF POLICY

It is the policy of this District to maintain a learning environment that is free from harassment because of an individual's race, color, sex, national origin or disability. The School District prohibits any and all forms of harassment because of race, color, sex, national origin, and disability.*

It shall be a violation of District policy for any student, teacher, administrator, or other school personnel of this District to harass a student through conduct of a sexual nature, or regarding race, color, national origin or disability, as defined by this policy.

It shall also be a violation of District policy for any teacher, administrator or other school personnel of this District to tolerate sexual harassment or harassment because of a student's race, color, national origin, ethnicity, or disability, as defined by this policy, by a student, teacher, administrator, other school personnel, or by any third parties who are participating in, observing, or otherwise engaged in activities, including sporting events and other extra curricular activities, under the auspices of the School District.

For purpose of this policy, the term "school personnel" includes school board members, school employees, agents, volunteers, contractors, or persons subject to the supervision and control of the District.

The school system will act to promptly investigate all complaints, either formal or informal, verbal or written, of harassment because of race, color, sex, national origin, or disability; to promptly take appropriate action to protect individuals from further harassment; and, if it determines that unlawful harassment occurred, to promptly and appropriately discipline any student, teacher, administrator or other school personnel who is found to have violated this policy, and/or to take other appropriate action reasonably calculated to end the harassment.**

II. DEFINITIONS

A. Sexual harassment

For purposes of this policy, sexual harassment of a student consists of unwelcome and unsolicited sexual advances, requests for sexual favors, sexually motivated physical conduct, or other verbal or physical conduct or communication of a sexual nature when:

1. a school employee causes a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity, or when an employee or third party agent of the school district causes a student to believe that the employee will make an educational decision based on whether or not the student submits to unwelcome sexual conduct; or

2. the unwelcome sexual conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational environment.

Examples of conduct which may constitute sexual harassment include

- sexual advances
- touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex
- coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts
- coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another
- graffiti of a sexual nature
- sexual gestures
- sexual or dirty jokes
- touching oneself sexually or talking about one's sexual activity in front of others
- spreading rumors about or rating other students as to sexual activity or performance
- unwelcome, sexually motivated or inappropriate patting, pinching or physical contact. This prohibition does not preclude legitimate, non sexual physical conduct such as the use of necessary restraints to avoid physical harm to persons or property, or conduct such as teacher's consoling hug of a young student, or one student's demonstration of a sports move requiring contact with another student
- other unwelcome sexual behavior or words, including demands for sexual favors, when accompanied by implied or overt threats concerning an individual's educational status or implied or overt promises of preferential treatment.

B. Harassment because of race or color

For purposes of this policy, racial harassment of a student consists of verbal or physical conduct relating to an individual's race or color, when

1. the harassing conduct is sufficiently severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational environment;

*This policy should not be read to abrogate other District policies prohibiting other forms of unlawful discrimination, inappropriate behavior, and/or hate crimes within this District. It is the intent of the District that all such policies be read consistently to provide the highest level of protection from unlawful discrimination in the provision of educational services and opportunities.

**This policy is made pursuant to the requirements of 42 U.S.C. sec. 2000d; 20 U.S.C. sec. 1681 et seq.; 29 U.S.C. sec. 791 et seq.; 42 U.S.C. sec. 12131-12134.

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2. the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's academic performance; or
3. the harassing conduct otherwise adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of race or color include

- graffiti containing racially offensive language
- name calling, jokes or rumors
- threatening or intimidating conduct directed at another because of the other's race or color
- notes or cartoons
- racial slurs, negative stereotypes, and hostile acts which are based upon another's race or color
- written or graphic material containing racial comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race or color
- other kinds of aggressive conduct such as theft or damage to property which is motivated by race or color.

C. Harassment based upon National Origin or Ethnicity

For purposes of this policy, ethnic or national origin harassment of a student consists of verbal or physical conduct relating to an individual's ethnicity or country of origin or the country of origin of the individual's parents, family members or ancestors when

1. the harassing conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational environment;
2. the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. the harassing conduct otherwise adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of national origin or ethnicity include

- graffiti containing offensive language which is derogatory to others because of their national origin or ethnicity
- threatening or intimidating conduct directed at another because of the other's national origin or ethnicity
- jokes, name calling, or rumors based upon an individual's national origin or ethnicity
- ethnic slurs, negative stereotypes, and hostile acts which are based upon another's national origin or ethnicity
- written or graphic material containing ethnic comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, ethnicity or national origin
- other kinds of aggressive conduct such as theft or damage to property which is motivated by national origin or ethnicity.

D. Harassment because of disability

For purposes of this policy, harassment because of the disability of a student consists of verbal or physical conduct relating to an individual's physical or mental impairment when

1. the harassing conduct is so severe, persistent or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening or abusive educational environment;
2. the harassing conduct has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
3. the harassing conduct otherwise adversely affects an individual's learning opportunities.

Examples of conduct which may constitute harassment because of disability include

- graffiti containing offensive language which is derogatory to others because of their physical or mental disability
- threatening or intimidating conduct directed at another because of the other's physical or mental disability
- jokes, rumors or name calling based upon an individual's physical or mental disability
- slurs, negative stereotypes, and hostile acts which are based upon another's physical or mental disability
- graphic material containing comments or stereotypes which is posted or circulated and which is aimed at degrading individuals or members of protected classes
- a physical act of aggression or assault upon another because of, or in a manner reasonably related to, an individual's physical or mental disability
- other kinds of aggressive conduct such as theft or damage to property which is motivated by an individual's physical or mental disability.

III. REPORTING PROCEDURES

Any student who believes he or she has been the victim of sexual harassment or harassment based on race, color, national origin, or disability by a student, teacher, administrator or other school personnel of the School District, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extra curricular activities, under the auspices of the School District, is encouraged to immediately report the alleged acts to an appropriate School District official designated by this policy.

Any teacher, administrator, or other school official who has or receives notice that a student has or may have been the victim of sexual harassment or harassment based on race, color, national origin, or disability by a student, teacher, administrator or other school personnel of the School District, or by any other person who is participating in, observing, or otherwise engaged in activities, including sporting events and other extra curricular activities, under the auspices of the School District, is required to immediately report the alleged acts to an appropriate School District official designated by this policy.

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Any other person with knowledge or belief that a student has or may have been the victim of sexual harassment or harassment based on race, color, national origin, or disability as set forth above, is encouraged to immediately report the alleged acts to an appropriate School District official designated by this policy.

The School District encourages the reporting party or complainant to use the report form available from the principal of each building or available from the School District office, but oral reports shall be considered complaints as well. Use of formal reporting forms is not mandated. Nothing in this policy shall prevent any person from reporting harassment directly to a District Human Rights officer or to the superintendent.

A. In each school building, the [building principal] is the person responsible for receiving oral or written reports of sexual harassment, or harassment based on race, color, national origin, or disability at the building level. Any adult School District personnel who receives a report of sexual harassment, or harassment based on race, color, national origin, or disability shall inform the building principal immediately.

Upon receipt of a report, the principal must notify the School District Human Rights officer immediately, without screening or investigating the report. The principal may request but may not insist upon a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the principal to the Human Rights officer. If the report was given verbally, the principal shall personally reduce it to written form within 24 hours and forward it to the Human Rights officer. Failure to forward any harassment report or complaint as provided herein will result in disciplinary action against the principal. If the complaint involves the building principal, the complaint shall be made or filed directly with the Superintendent or the School District Human Rights officer by the reporting party or the complainant.

B. The School Board has designated: _____

_____

as the School District Human Rights officer with responsibility to identify, prevent, and remedy harassment. The District Human Rights officer shall

- receive reports or complaints of sexual harassment, and harassment based on race, color, national origin, or disability;
- oversee the investigative process;
- be responsible for assessing the training needs of the District's staff and students in connection with the dissemination, comprehension, and compliance with this policy;
- arrange for necessary training required for compliance with this policy; and
- insure that any investigation is conducted by an impartial investigator who has been trained in the requirements of equal educational opportunity, including harassment, and who is able to apply procedural and substantive standards which are necessary and applicable to identify unlawful harassment, recommend appropriate discipline and remedies when harassment is found, and take other appropriate action to rectify the damaging effects of any prohibited discrimination, including interim protection of the victim during the course of the investigation.

If any complaint involves a Human Rights officer, the complaint shall be filed directly with the Superintendent.

The School District shall conspicuously post this policy against harassment and violence in each school that the District maintains, in a place accessible to students, faculty, administrators, employees, parents and members of the public. This notice shall include the name, mailing address and telephone number of the Human Rights officer, [the name, mailing address and telephone number of the state agency responsible for investigating allegations of discrimination in educational opportunities,] and the mailing address and telephone number of the United States Department of Education, Office for Civil Rights.

C. A copy of this policy shall appear in the student handbook and shall be made available upon request of parents, students, and other interested parties.

D. The School Board will develop a method of discussing this policy with students and employees. Training on the requirements of non-discrimination and the appropriate responses to issues of harassment will be provided to all school personnel on an annual basis, and at such other times as the School Board in consultation with the District Human Rights officer determines is necessary or appropriate.

E. This policy shall be reviewed at least annually for compliance with state and federal law.

F. The School District will respect the privacy of the complainant, the individuals against whom the complaint is filed, and the witnesses as much as possible, consistent with the District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

IV. INVESTIGATION

Upon receipt of a report or complaint alleging sexual harassment, or harassment based upon race, national origin, or disability, the Human Rights officer shall immediately undertake or authorize an investigation. That investigation may be conducted by School District officials or by a third party designated by the School District.

The investigation may consist of personal interviews with the complainant, the individual against whom the complaint is filed, and others who have knowledge of the alleged incident or circumstances giving rise to the complaint. The investigation may also consist of the evaluation of any other information or documents which may be relevant to the particular allegations.

In determining whether the alleged conduct constitutes a violation of this policy, the School District shall consider

- the nature of the behavior
- how often the conduct occurred
- whether there were past incidents or past continuing patterns of behavior
- the relationship between the parties involved
- the race, national origin, sex and age of the victim
- the identity of the perpetrator, including whether the perpetrator was in a position of power over the student allegedly subjected to harassment

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- the number of alleged harassers
- the age of the alleged harasser
- where the harassment occurred
- whether there have been other incidents in the school involving the same or other students
- whether the conduct adversely affected the student's education or educational environment
- the context in which the alleged incidents occurred.

Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

The investigation shall be completed [no later than fourteen days from receipt of the report]. The School District Human Rights officer shall make a written report to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, the report may be filed directly with the School Board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy. The School District Human Rights officer's obligation to conduct this investigation shall not be extinguished by the fact that a criminal investigation involving the same or similar allegations is also pending or has been concluded.

V. SCHOOL DISTRICT ACTION

A. Upon receipt of a report that a violation has occurred, the School District will take prompt, appropriate formal or informal action to address, and where appropriate, remediate the violation. Appropriate actions may include but are not limited to counseling, awareness training, parent-teacher conferences, warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. School District action taken for violation of this policy shall be consistent with the requirements of applicable collective bargaining agreements, state and federal law, and School District policies for violations of a similar nature or similar degree of severity. In determining what is an appropriate response to a finding that harassment in violation of this policy has occurred, the School District shall consider

- what response is most likely to end any ongoing harassment
- whether a particular response is likely to deter similar future conduct by the harasser or others
- the amount and kind of harm suffered by the victim of the harassment
- the identity of the party who engaged in the harassing conduct
- whether the harassment was engaged in by school personnel, and if so, the School District will also consider how it can best remediate the effects of the harassment.

In the event that the evidence suggests that the harassment at issue is also a crime in violation of an Arizona criminal statute, the School Board shall also direct the School District Human Rights officer to report the results of the investigation to the appropriate law enforcement agency charged with responsibility for handling such crimes.

B. The results of the School District's investigation of each complaint filed under these procedures will be reported in writing to the complainant and other parties by the School District in accordance with state and federal laws regarding data or records privacy, and consistent with the privacy rights of the alleged harasser.

C. If the results of the School District's evaluation of a complaint of harassment results in a conclusion that an individual has engaged in unlawful harassment in violation of this policy, or that school personnel have failed to report harassment as required herein, that individual may appeal this determination by use of established School Board procedures for appealing other adverse personnel and/or education related actions. If the results of the School District's evaluation of a complaint of harassment results in a conclusion that no unlawful harassment has occurred, an individual who was allegedly subjected to harassment and believes that this conclusion is erroneous may appeal this determination by use of established School Board procedures for appealing other adverse personnel and/or education related actions.

D. Copies of all complaints of harassment and the investigations conducted pursuant to them shall be maintained for a period of [two years] at the [main administrative offices of the School District].

VI. REPRISAL

Submission of a good faith complaint or report of sexual harassment, or harassment based upon race, color, disability or national origin will not affect the complainant or reporter's future employment, grades, learning or working environment or work assignments.

The School District will discipline or take appropriate action against any student, teacher, administrator or other school personnel who retaliates against any person who reports an incident of alleged sexual, racial, ethnic or disability related harassment or violence, or any person who testifies, assists or participates in a proceeding, investigation or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

REPORT FORM FOR REPORTS OR COMPLAINTS OF SEXUAL HARASSMENT, AND HARASSMENT BECAUSE OF RACE, NATIONAL ORIGIN, AND DISABILITY

Complainant _____

Home Address _____

Work Address _____

Home Phone _____

Work Phone _____

Date of alleged incident(s)_____

Did the incidents involve sexual harassment _____ racial harassment _____ harassment because of national origin _____ harassment because of disability _____ (circle all that apply)

Name of person you believe harassed you or another person:_____

If the alleged harassment was toward another person, identify that other person _____

Describe the incident as clearly as possible, including such things as what force, if any, was used, any verbal statements (i.e. threats, requests, demands, etc.), what, if any physical contact was involved. Attach additional pages as necessary.

_____

_____

_____

_____

When and where did the incident occur?_____

List any witnesses who were present:_____

This complaint is based upon my honest belief that

_____

has harassed me or another person. I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge.

_____

(complainant's signature)

_____

(date)

_____

(received by)

_____

(date)

DISTRICT POLICY AGAINST SEXUAL HARASSMENT, AND HARASSMENT BASED UPON RACE, NATIONAL ORIGIN, AND DISABILITY

1. Everyone at _____ has a right to feel respected and safe.

Consequently, we want you to know about our policy to prevent sexual harassment, and harassment because of race, national origin, and disability.

2. A harasser may be a student or an adult. Harassment may include the following when related to sex, race, national origin, or disability:

a. name calling

b. pulling on clothing

c. graffiti

d. notes or cartoons

e. unwelcome touching of a person or clothing

f. offensive or graphic posters or book covers; or

g. violent acts

3. If any words or actions make you feel uncomfortable or fearful, you need to tell a teacher, counselor, the principal or the Human Rights officer.

4. You may also make a written report. It should be given to a teacher, counselor, the principal or the Human Rights officer.

5. Your right to privacy will be respected as much as possible.

6. We take seriously all reports of sexual harassment, and harassment based upon race, national origin, and disability, and will take all appropriate action to investigate such claims, to eliminate that harassment, and to discipline any persons found to have engaged in such conduct.

7. The School District will also take action if anyone tries to intimidate you or take action to harm you because you made such a report.

8. This is a summary of this district's policy against sexual harassment, and harassment because of race, national origin, and disability. A complete copy of the policy is available at the _____ office upon request.

SEXUAL HARASSMENT AND HARASSMENT BASED ON RACE, NATIONAL ORIGIN, AND DISABILITY ARE AGAINST THE LAW. DISCRIMINATION IS AGAINST THE LAW.

Contact:

_____

Human Rights Officer

_____

Address

_____

Telephone

Minnesota Sample School Board Policy Prohibiting Harassment and Violence

Prepared by the Minnesota School Boards Association

I. GENERAL STATEMENT OF POLICY

It is the policy of Independent School District No. __ (the "School District") to maintain a learning and working environment that is free from religious, racial or sexual harassment and violence. The School District prohibits any form of religious, racial or sexual harassment and violence.

It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel of the School District to harass a pupil, teacher, administrator or other school personnel through conduct or communication of a sexual nature or regarding religion and race as defined by this policy. (For purposes of this policy, school personnel includes school board members, school employees, agents, volunteers, contractors or persons subject to the supervision and control of the District.)

It shall be a violation of this policy for any pupil, teacher, administrator or other school personnel of the School District to inflict, threaten to inflict, or attempt to inflict religious, racial or sexual violence upon any pupil, teacher, administrator or other school personnel.

The School District will act to investigate all complaints, either formal or informal, verbal or written, of religious, racial or sexual harassment or violence, and to discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who is found to have violated this policy.

II. RELIGIOUS, RACIAL AND SEXUAL HARASSMENT AND VIOLENCE DEFINED

A. Sexual Harassment; Definition. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

(i) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or

(ii) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or

(iii) that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile or offensive employment or educational environment.

Sexual harassment may include but is not limited to:

(i) unwelcome verbal harassment or abuse;

(ii) unwelcome pressure for sexual activity;

(iii) unwelcome, sexually motivated or inappropriate patting, pinching or physical contact, other than necessary restraint of pupil(s) by teachers, administrators or other school personnel to avoid physical harm to persons or property;

(iv) unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;

(v) unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status; or

(vi) unwelcome behavior or words directed at an individual because of gender.

B. Racial Harassment; Definition. Racial harassment consists of physical or verbal conduct relating to an individual's race when the conduct:

(i) has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;

(ii) has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

(iii) otherwise adversely affects an individual's employment or academic opportunities.

C. Religious Harassment; Definition. Religious harassment consists of physical or verbal conduct which is related to an individual's religion when the conduct:

(i) has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;

(ii) has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

(iii) otherwise adversely affects an individual's employment or academic opportunities.

D. Sexual Violence; Definition. Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts, as defined in Minnesota Statutes Section 609.341, include the

primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas.

Sexual violence may include, but is not limited to:

(i) touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;

(ii) coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;

(iii) coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another; or

(iv) threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

E. Racial Violence: Definition. Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.

F. Religious Violence: Definition. Religious violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion.

G. Assault: Definition. Assault is:

(i) an act done with intent to cause fear in another of immediate bodily harm or death;

(ii) the intentional infliction of or attempt to inflict bodily harm upon another; or

(iii) the threat to do bodily harm to another with present ability to carry out the threat.

III. REPORTING PROCEDURES

Any person who believes he or she has been the victim of religious, racial or sexual harassment or violence by a pupil, teacher, administrator or other school personnel of the School District, or any person with knowledge or belief of conduct which may constitute religious, racial or sexual harassment or violence toward a pupil, teacher, administrator or other school personnel should report the alleged acts immediately to an appropriate School District official designated by this policy. The School District encourages the reporting party or complainant to use the report form available from the principal of each building or available from the School District office, but oral reports shall be considered complaints as well. Nothing in this policy shall prevent any person from reporting harassment or violence directly to a District Human Rights Officer or to the Superintendent.

A. In Each School Building. The building principal is the person responsible for receiving oral or written reports of religious, racial or sexual harassment or violence at the building level. Any adult School District personnel who receives a report of religious, racial or sexual harassment or violence shall inform the building principal immediately.

Upon receipt of a report, the principal must notify the School District Human Rights Officer immediately, without screening or investigating the report. The principal may request, but may not insist upon, a written complaint. A written statement of the facts alleged will be forwarded as soon as practicable by the principal to the Human Rights Officer. If the report was given verbally, the principal shall personally reduce it to written form within 24 hours and forward it to the Human Rights Officer. Failure to forward any harassment or violence report or complaint as provided herein will result in disciplinary action against the principal. If the complaint involves the building principal, the complaint shall be made or filed directly with the Superintendent or the School District Human Rights Officer by the reporting party or complainant.

B. In the District. The School Board hereby designates _____ as the School District Human Rights Officer(s) to receive reports or complaints of religious, racial or sexual harassment or violence. If the complaint involves a Human Rights Officer, the complaint shall be filed directly with the Superintendent. (In some School Districts the Superintendent may be the Human Rights Officer. If so, an alternative individual should be designated by the School Board.)

The School District shall conspicuously post the name of the Human Rights Officer(s), including mailing addresses and telephone numbers.

C. Submission of a good faith complaint or report of religious, racial or sexual harassment or violence will not affect the complainant or reporter's future employment, grades or work assignments.

D. Use of formal reporting forms is not mandatory.

E. The School District will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the School District's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations.

IV. INVESTIGATION

By authority of the School District, the Human Rights Officer, upon receipt of a report or complaint alleging religious, racial or sexual harassment or violence, shall immediately undertake or authorize an investigation. The investigation may be conducted by School District officials or by a third party designated by the School District.

The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

In determining whether alleged conduct constitutes a violation of this policy, the School District should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in

which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

In addition, the School District may take immediate steps, at its discretion, to protect the complainant, pupils, teachers, administrators or other school personnel pending completion of an investigation of alleged religious, racial or sexual harassment or violence.

The investigation will be completed as soon as practicable. The School District Human Rights Officer shall make a written report to the Superintendent upon completion of the investigation. If the complaint involves the Superintendent, the report may be filed directly with the School Board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

V. SCHOOL DISTRICT ACTION

A. Upon receipt of a report, the School District will take appropriate action. Such action may include, but is not limited to: warning, suspension, exclusion, expulsion, transfer, remediation, termination or discharge. School District action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota and federal law and School District policies.

B. The result of the School District's investigation of each complaint filed under these procedures will be reported in writing to the complainant by the School District in accordance with state and federal law regarding data or records privacy.

VI. REPRISAL

The School District will discipline or take appropriate action against any pupil, teacher, administrator or other school personnel who retaliates against any person who reports alleged religious, racial or sexual harassment or violence or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

VII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the Minnesota Department of Human Rights, initiating civil action or seeking redress under state criminal statutes and/or federal law.

VIII. HARASSMENT OR VIOLENCE AS ABUSE

Under certain circumstances, alleged harassment or violence may also be possible abuse under Minnesota law. If so, the duties of mandatory reporting under Minnesota Statutes Section 626.556 may be applicable.

Nothing in this policy will prohibit the School District from taking immediate action to protect victims of alleged harassment, violence or abuse.

IX. DISSEMINATION OF POLICY AND TRAINING

A. This policy shall be conspicuously posted throughout each school building in areas accessible to pupils and staff members.

B. This policy shall appear in the student handbook.

C. The School District will develop a method of discussing this policy with students and employees.

D. This policy shall be reviewed at least annually for compliance with state and federal law.

INDEPENDENT SCHOOL DISTRICT NO.___ RELIGIOUS, RACIAL OR SEXUAL HARASSMENT AND VIOLENCE REPORT FORM

General Statement of Policy Prohibiting Religious, Racial or Sexual Harassment

Independent School District No.___ maintains a firm policy prohibiting all forms of discrimination. Religious, racial or sexual harassment or violence against students or employees is discrimination. All persons are to be treated with respect and dignity. Sexual violence, sexual advances or other forms of religious, racial or sexual harassment by any pupil, teacher, administrator or other school personnel, which create an intimidating, hostile or offensive environment will not be tolerated under any circumstances.

Complainant_____
Home
Address_____
Work
Address_____
Home Phone_____
Work Phone_____
Date of Alleged
Incident(s)_____
Circle as appropriate: sexual racial religious.
Name of person you believe harassed or was violent toward you or another person.

_____

_____

If the alleged harassment or violence was toward another person, identify that
person._____

Describe the incident(s) as clearly as possible, including such things as: what force, if any, was used, any verbal statements (i.e. threats, requests, demands, etc.); what, if any, physical contact was involved, etc. (Attach additional pages if necessary.)

_____

_____

_____

Where and when did the incident(s) occur?

_____

_____

List any witnesses who were present.

_____

_____

This complaint is filed based on my honest belief that _____ has harassed or has been violent to me or to another person I hereby certify that the information I have provided in this complaint is true, correct and complete to the best of my knowledge and belief.

_____

(Complainant Signature) (Date)
Received by _____ (Date)

*** ATTENTION ***

DISTRICT _____ POLICY AGAINST RELIGIOUS, RACIAL AND SEXUAL HARASSMENT AND VIOLENCE

1. Everyone at District _____ has a right to feel respected and safe. Consequently, we want you to know about our policy to prevent religious, racial or sexual harassment and violence of any kind.

2. A narasser may be a student or an adult. Harassment may include the following when related to religion, race, sex or gender:

a. name calling, jokes or rumors;
b. pulling on clothing;
c. graffiti;
d. notes or cartoons;
e. unwelcome touching of a person or clothing;
f. offensive or graphic posters or book covers; or
g. any words or actions that make you feel uncomfortable, embarrass you, hurt your feelings or make you feel bad.

3. If any words or action make you feel uncomfortable or fearful, you need to tell a teacher, counselor, the principal or the Human Rights Officer, _____

4. You may also make a written report. It should be given to a teacher, counselor, the principal or the Human Rights Officer.

5. Your right to privacy will be respected as much as possible.

6. We take seriously all reports of religious, racial or sexual harassment or violence and will take all appropriate actions based on your report.

7. The School District will also take action if anyone tries to intimidate you or take action to harm you because you have reported.

8. This is a summary of the School District policy against religious, racial and sexual harassment and violence. Complete policies are available in the _____ office upon request.

RELIGIOUS, RACIAL AND SEXUAL HARASSMENT AND VIOLENCE ARE AGAINST THE LAW.
DISCRIMINATION IS AGAINST THE LAW.

CONTACT: _____
HUMAN RIGHTS OFFICER

Vermont Model Anti-Harassment Policy

Prepared by the State Department of Education

MEMORANDUM

Date: January 19, 1995
From: Richard P. Mills, Commissioner
To: All Superintendents and Principals of Public and Independent Schools
Subject: Anti-Harassment Policies and Procedures

As you may recall, the 1994 Legislature enacted S-313, a bill that requires that all school districts and independent schools to have anti-harassment policies and procedures in place by August 1, 1995.

In conjunction with the Vermont Human Rights Commission and the Governor's Commission on Women, my colleagues have drafted a model policy and set of procedures for you to consider for adoption by your respective boards. This model was developed with the assistance of educational and community leaders from around Vermont. I am proud of the product of this collaboration and am providing you a copy of that work as an attachment. I also want to publicly thank Sara Lee and Susan Egerton-Donnon, Governors Commission on Women, and Susan Sussman, Vermont Human Rights Commission, for their time and assistance to this project.

You are not required to adopt this model policy. You are required to adopt a policy that meets the statutory requirements by the above deadline. You may craft your own or adopt a model that meets your needs. There are other examples of model policies and procedures for your consideration. [e.g. the Vermont School Boards Association, in conjunction with other members of the Vermont Education Coalition, has developed a policy that you may want to consider.]

Please note that there are no specific training requirements in the procedures. However, the procedures include the statutory requirement that boards develop and initiate age-appropriate programs to effectively inform students and staff of the substance of the policy and procedures. I also strongly suggest that, at a minimum, the persons who will deal with the complaints receive training in cultural diversity, investigation techniques and the statutory requirements. My colleagues will be developing a list of training and funding sources to assist you.

Whatever model you use, I recommend that you involve all the members of your educational community in the discussions concerning wording and adoption. All parents, teachers, students and other community members have a stake in maintaining a safe, harassment-free school environment.

MODEL ANTI-HARASSMENT POLICY **

General Statement of Policy

The _____ Supervisory Union and/or School District is committed to providing all students with a safe and supportive school environment. Members of the school community are expected to treat each other with mutual respect *[and to accept the rich diversity which makes up the community. Disrespect among members of the school community is unacceptable behavior which threatens to disrupt the learning environment and decrease self-esteem.]*

Harassment is a form of unlawful discrimination as well as disrespectful behavior which will not be tolerated.

It is hereby the policy of the _____ Supervisory Union/School District to oppose and prohibit, without qualification, unlawful harassment based on race, color, religion (creed), national origin, marital status, sex, sexual orientation, or disability.

Any unlawful harassment of a student by a member of the school community is a violation of this policy.

The _____ Supervisory Union/School District shall act to investigate all complaints of harassment, either formal or informal, verbal or written, and to discipline or take other appropriate action against any member of the school community who is found to have violated this policy.

Definitions

School community includes but is not limited to all students, school employees, contractors, unpaid volunteers and other visitors.

School Employee includes but is not limited to all teachers, support staff, administrators, bus drivers, custodians, cafeteria workers, coaches, school board members and agents of the school.

Unlawful Harassment means verbal or physical conduct based on a student's actual or perceived race, religion (creed), color, national origin, marital status, sex, sexual orientation or disability and which has the purpose or effect of substantially interfering with a student's educational performance or creating an intimidating, hostile or offensive environment. *Vermont Statutes, Title 16, Section 11(a)(26).*

Harassment can include any unwelcome verbal, written or physical conduct which offends, denigrates, or belittles any individual because of any of the characteristics described above. Such conduct includes, but is not limited to unsolicited derogatory remarks, jokes, demeaning comments or behavior, slurs, mimicking, name calling, graffiti, innuendo, gestures, physical contact, stalking, threatening, bullying, extorting or the display or circulation of written materials or pictures. These apply to all of the characteristics listed above. For more specific examples, see page 3 of this policy.

** *[Italics and brackets indicate language that is not required but is recommended as best practice]*

Sexual Harassment means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

(A) Submission to that conduct is made either explicitly or implicitly a term or condition of a student's education.

(B) Submission to or rejection of such conduct by a student is used as a component of the basis for decisions affecting that student.

(C) The conduct has the purpose or effect of substantially interfering with a student's educational performance or creating an intimidating, hostile or offensive educational environment. *Vermont Statutes, Title 16, Section 11(a)(26).*

This applies whether the harassment is between people of the same or different gender. Sexual harassment can include unwelcome verbal, written or physical conduct, directed at or related to a person's gender, such as sexual gossip or personal comments of a sexual nature, sexually suggestive or foul language, sexual jokes, whistling, spreading rumors or lies of a sexual nature about someone, demanding sexual favors, forcing sexual activity by threat of punishment or offer of educational reward, obscene graffiti, display or sending of pornographic pictures or objects, offensive, touching, pinching, grabbing, kissing or hugging or restraining someone's movement in a sexual way.

Additional examples of specific types of prohibited harassment are listed below.

Racial and Color Harassment

Racial or color harassment can include unwelcome verbal, written or physical conduct, directed at the characteristics of a person's race or color, such as nicknames emphasizing stereotypes, racial slurs, comments on manner of speaking, and negative references to racial customs.

Religious (Creed) Harassment

Harassment on the basis of religion or creed is unwelcome verbal, written or physical conduct, directed at the characteristics of a person's religion or creed, such as derogatory comments regarding surnames, religious tradition, or religious clothing, or religious slurs, or graffiti.

National Origin Harassment

Harassment on the basis of national origin is unwelcome verbal, written or physical conduct, directed at the characteristics of a person's national origin, such as negative comments regarding surnames, manner of speaking, customs, language, or ethnic slurs.

Marital Status Harassment

Harassment on the basis of marital status is unwelcome verbal, written or physical conduct, directed at the characteristics of a person's marital status, such as comments regarding pregnancy or being an unwed mother or father.

Sexual Orientation Harassment

Harassment on the basis of sexual orientation is unwelcome verbal, written or physical conduct, directed at the characteristics of a person's sexual orientation, such as negative name calling and imitating mannerisms.

Disability Harassment

Disability harassment includes harassment based on a person's disabling mental or physical condition and includes any unwelcome verbal, written or physical conduct, directed at the characteristics of a person's disabling condition, such as imitating manner of speech or movement, or interference with necessary equipment.

Retaliation

It is a separate and distinct violation of this policy for any member of the school community to retaliate against any person who reports alleged harassment or against any person who testifies, assists or participates in an investigation, proceeding or hearing relating to such harassment. It is possible that an alleged harasser may be found to have violated this anti-retaliation provision even if the underlying complaint of harassment is not found to be a violation of this policy. Retaliation includes, but is not limited to any form of intimidation, reprisal or harassment and may be redressed through application of the same reporting, investigation, and enforcement procedures as for harassment. *[In addition, a person who knowingly makes a false report may be subject to the same action that the Supervisory Union and/or School District may take against any other individual who violates this policy. The term "false report" refers only to those made in bad faith and does not include a complaint that could not be corroborated or which did not rise to the level of unlawful harassment.]*

Consequences

Any school employee or student that is found to have violated this policy may be subject to action including, but not limited to, warning, remedial training, education or counseling, suspension, exclusion, expulsion, transfer, termination or discharge.

** RECOMMENDED PROCEDURES FOR IMPLEMENTATION OF MODEL ANTI-HARASSMENT POLICY

Reporting

Any school employee who observes, overhears or otherwise witnesses harassment, which may be unlawful, or to whom such harassment is reported, must take prompt and appropriate action to stop the harassment and to prevent its reoccurrence. A written report of the incident and the action taken by the school employee in response to it must also be given to the appropriate Supervisory Union/School District/harassment complaint official designated to oversee the handling of harassment complaints.

In the event that the school employee is unable to personally take prompt and appropriate action, the employee must report the incident or complaint in writing to the appropriate Supervisory Union/School District/harassment complaint official(s) designated by this policy.

Any student or other person who believes that unlawful harassment of a student has occurred may inform any school employee or one of the harassment complaint officials.

Any student who believes that s/he has been the target of unlawful harassment as defined in this policy may bring their complaint to the attention of any school employee or the harassment complaint official. Any student who believes that any corrective action taken by a school employee was ineffective may bring their complaint to the attention of the harassment complaint official. The complaint may be made either orally or in writing. The following are the harassment complaint officials:

_____ (name)
_____ (title)
_____ (name)
_____ (title)

If one of the harassment complaint officials is the person alleged to be engaged in the harassment, the complaint shall be filed with one of the alternative officials or any other school employee the student chooses.

*** [Italics and brackets indicate language that is not required but is recommended as best practice]*

[Process

Informal Procedure

It may be possible to resolve a complaint through a voluntary conversation between the complaining student and the alleged harasser which is facilitated by a school employee or by a designated harassment complaint official. If the complaining student or alleged harasser is a student under the age of 18, the harassment complaint official should notify the student's parent(s)/guardian(s) if, after initial consultation with the student, it is determined to be in the best interests of the student. Both the complaining student and the alleged harasser may be accompanied by a person of their choice for support and guidance. If the complaining student and the alleged harasser feel that a resolution has been achieved, then the conversation may remain confidential and no further action needs to be taken. The results of an informal resolution shall be reported by the facilitator, in writing, to the Superintendent and to the School Principal.

If the complaining student, the alleged harasser, or the school employee/harassment complaint official, chooses not to utilize the informal procedure, or feels that the informal procedure is inadequate or has been unsuccessful, s/he may proceed to the formal procedure. Any complaint against a school employee shall be handled through the formal procedure.

Formal Procedure

Step 1

The harassment complaint official shall fill out a harassment complaint form based on the written or verbal allegations of the complaining student. This complaint form shall be kept in a centralized and secure location.

A) The complaint form shall detail the facts and circumstances of the incident or pattern of behavior.

B) If a student under 18 years of age is involved, his/her parents shall be notified immediately unless, after consultation with the student, it is determined not to be in the best interests of the student.

C) An investigation shall be completed by the harassment complaint official within 14 calendar days from the date of the complaint or report.

Step 2

The investigation may consist of personal interviews with the complaining student, the alleged harasser and any other individuals who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. In determining whether alleged conduct constitutes a violation of this policy, the harassment complaint official should consider the surrounding circumstances, any relevant documents, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

In addition, the _____ Supervisory Union and/or School District may take immediate steps, at its discretion, to protect the complaining student, alleged harasser, witnesses, and school employees pending completion of an investigation of alleged harassment and may make any appropriate referrals for assistance, including but not limited to counseling, rape crisis intervention, etc.

The investigation will be completed as soon as practicable, but no later than fourteen (14) calendar days from the complaint or report. The harassment complaint official shall make a written report to the Superintendent and the School Principal upon completion of the investigation. The report shall include a determination as to whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

Step 3

Following the investigation, the harassment complaint official shall recommend to the Superintendent and/or School Principal what action, if any, is required. The Supervisory Union and/or School District shall take appropriate action in all cases where the harassment complaint official concludes that this

policy has been violated. Any person who is determined to have violated this policy shall be subject to action, including but not limited to, warning, exclusion, suspension, expulsion, transfer, termination, discharge or any other remedial action, including but not limited to, training, education, or counseling. Action taken for violation of this policy shall be consistent with the requirements of any applicable collective bargaining agreement, Supervisory Union and/or School District policy, state and federal law, including but not limited to the due process protections for students with disabilities.

Step 4

The Superintendent and/or School Principal shall maintain the written report of the investigation and results in his/her office. In the case of an investigation conducted by a school district, the Superintendent shall receive a copy of the investigation report and results. If the harassment complaint official concludes that the policy has been violated by a professional educator or administrator, a report of the findings shall be filed with the Licensing Office of the Vermont Department of Education.

The complaining student and the alleged harasser shall be informed of the results of the investigation, including whether the allegations were found to be factual, whether there was a violation of the policy, and whether disciplinary action was or will be taken.]

[* * * *Reporting of potential physical and/or sexual abuse*

Several behaviors listed as sexual harassment (i.e., sexual touching, grabbing, pinching, being forced to kiss someone, being forced to do something other than kissing, sexual assault) may also constitute physical or sexual abuse. Sexual abuse is defined as any act or acts by any person involving sexual molestation or exploitation of a child, including but not limited to incest, prostitution, rape, sodomy or any lewd or lascivious conduct involving a child. Thus, under certain circumstances, alleged harassment may also be possible physical and/or sexual abuse under Vermont law. Such harassment or abuse is subject to the duties of mandatory reporting and must be reported to the Department of Social and Rehabilitation Services (SRS) within 24 hours of the time the educator becomes aware of the suspected abuse. Vermont Statutes, Title 33, Section 4911 et seq.] * * **(While not absolutely required by the statute, recent events and an Attorney General's Opinion lead us to recommend that something like this paragraph be included in the procedures.)**

[*Confidentiality*

The _____ Supervisory Union and/or School District recognizes that both the complaining student and the alleged harasser have strong interests in maintaining the confidentiality of the allegations and related information. The privacy of the complaining student, the individual(s) against whom the complaint is filed, and the witnesses will be respected as much as possible, consistent with legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.]

Alternative Complaint Procedures

In addition to, or instead of, filing a harassment complaint through this policy, a person may choose to exercise other options, including but not limited to filing a complaint with outside agencies or filing a private lawsuit.

Outside Agencies

A charge of harassment may also be investigated by the Vermont Human Rights Commission, [*the Vermont Department of Education,*] or the Office for Civil Rights of the U.S. Department of Education which may be contacted as follows:

Office for Civil Rights, U.S. Department of Education, Region 1
McCormack Post Office and Courthouse
Room 222, Post Office Square
Boston, MA 02109-4557
(617) 223-9662

Vermont Human Rights Commission
135 State Street (2nd Floor)
Drawer 33
Montpelier, VT 05633-1201
(802) 828-2480

[Vermont Department of Education
120 State Street
Montpelier, VT 05620-2501
(802) 828-3135]

[*Litigation*

A student who has been harassed may file a lawsuit under a number of federal or state statutes (including Titles IV, VI, and IX of the federal Civil Rights Act of 1964, the Rehabilitation Act of 1973 and the Vermont Public Accommodations Act). He or she or his/her parent should consult with a private attorney about these rights and options.]

Notice and Publication

The School Board shall provide notice of the policy and procedures to students, custodial parents or guardians and school employees. Notice to students shall be in age-appropriate language and should include examples of harassment. At a minimum, the policy shall be conspicuously posted throughout each school building in areas accessible to all members of the school community. The notice shall also appear in the school handbook and any other publication of the school district that sets forth the comprehensive rules, procedures and standards of conduct for the school. There shall be procedures for publicizing, on an annual basis, the identity of the harassment complaint officials who are designated to receive complaints. The board shall use its discretion in developing and initiating age-appropriate programs to effectively inform students and school employees about the substance of the policy and procedures in order to help prevent harassment.

Rules of the West Virginia Board of Education

Executive Summary
Policy 2421
Racial, Sexual, Religious/Ethnic Harassment and Violence Policy

Public Comment Period Ended: November 15, 1996
Adopted: December 12, 1996

Background:

Incidents of harassment against students and in some cases against school personnel seem to be increasing. Student performance in school can be adversely affected when harassment of any kind is present. School staff should also be protected from any form of harassment. Educational institutions should play a significant role in the process of eliminating all types of harassment. In 1994, the U.S. Office of Civil Rights recognized the commonalities of sexual and racial/ethnic harassment and in 1992 the Supreme Court (Franklin vs. Gwinnett County) held school districts legally responsible for protecting students from sexual harassment by their staff members. Schools also have a moral and legal responsibility to prevent student to student harassment which occurs more often.

Purpose:

The purpose of these regulations is to assure that neither students nor staff are subjected to racial, sexual or religious/ethnic harassment or violence, to outline prevention programs and reporting procedures and to delineate penalties for violations of this policy. It is the intent of the West Virginia Board of Education to assure that the learning and working environment is free from any type of harassment or violence.

Contents:

This policy defines harassment and violence, outlines reporting procedures and requires the development of prevention programs.

Comments:

The policy has been on public comment since September 1996. Approximately 30 individuals submitted comments and extensive suggested changes or additions were made by the West Virginia Human Rights Commission. Most of the comments were requesting that the Department of Education develop examples of local policies and assist in staff development. The Human Rights Commission comments suggested that county boards of education should be encouraged to involve community agencies in local policy development and prevention programs. These suggested changes have been made in the revised policy.

Impact:

Each county board of education, RESA and the state department of education will need to develop: a harassment prevention plan; a reporting and investigation system; and a system to assess the effectiveness of their efforts. In addition, each must develop an education program to explain the policies and procedures and to increase sensitivity and awareness of other races, cultures and religions as well as to help students and staff become more responsible in their behavior toward others.

December 16, 1996

126 CSR 18
LEGISLATIVE RULES
BOARD OF EDUCATION

RACIAL, SEXUAL, RELIGIOUS/ETHNIC HARASSMENT AND VIOLENCE POLICY (2421)

§126-18-1. General.

1.1. Scope. This rule sets the requirements for schools in West Virginia to be harassment and violence free.

1.2. Authority. West Virginia Constitution, Art XII §2 and West Virginia Code 18-2-5, 18-2-5a, and 18-2-7b.

1.3. Filing Date. December 16, 1996

1.4. Effective Date. January 16, 1997

1.5. Repeal of former rule — None

§126-18-2. Purpose.

2.1. The purpose of these regulations is to prevent racial, sexual or religious/ethnic harassment or violence toward students and staff, to protect the academic environment, and to assure that our educational institutions respond to harassment and/or violence incidents when they occur in a manner that effectively deters future incidents and affirms respect for individuals. These regulations require county boards to design and implement prevention and response programs, to outline investigatory and reporting procedures and to delineate penalties for violations of this policy. To the extent possible, county boards will collaborate with other state and local agencies in carrying out the purpose of this rule. It is the intent of the State Board to ensure that the learning and working environments are free from any type of harassment or violence.

§126-18-3. Application.

3.1. These regulations apply to any student, staff member or member of the public during any school related activity or during any education sponsored event whether in a building or other property used or operated by a county board of education, RESA or state department of education or in another facility being used by any of those agencies. The term "staff members," as used in these regulations, shall encompass

all employees of the county board of education or other applicable local agency or facility.

3.2. No student, staff member or member of the public, during any school related activity or during any education sponsored event, whether in a building or other property used or operated by a county board of education, RESA or the West Virginia Department of Education or in another facility being used by any of those agencies, shall engage in sexual, racial or ethnic/religious harassment or violence. Persons found to have violated this prohibition shall be subject to the penalties in Section 8.1.

3.3. Amorous relationships between staff members and students are prohibited, and staff members found to have violated this prohibition shall be subject to the penalties outlined in Section 8.1.

§126-18-4. Definitions.

4.1. Sexual Harassment - Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

4.1.1. submission to the conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or

4.1.2. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education;

4.1.3. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education; or creating an intimidating, hostile or offensive employment or educational environment.

4.1.4. sexual harassment may include, but is not limited to:

a. unwelcome verbal harassment of a sexual nature or abuse;

b. unwelcome pressure for sexual activity;

c. unwelcome, sexually motivated or inappropriate patting, pinching or physical contact;

d. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual's employment or educational status;

e. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status;

f. unwelcome behavior, verbal or written words or symbols directed at an individual because of gender;

g. the use of authority to emphasize the sexuality of a student in a manner that prevents or impairs that student's full enjoyment of educational benefits, climate or opportunities.

4.2. Racial Harassment - Racial harassment consists of physical, verbal or written conduct relating to an individual's race when the conduct:

4.2.1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;

4.2.2. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

4.2.3. otherwise adversely affects an individual's employment or academic opportunities.

4.3. Religious/Ethnic Harassment - Religious/ethnic harassment consists of physical, verbal or written conduct which is related to an individual's religion or ethnic background when the conduct:

4.3.1. has the purpose or effect of creating an intimidating, hostile or offensive working or academic environment;

4.3.2. has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or

4.3.3. otherwise adversely affects an individual's employment or academic opportunities.

4.4. Sexual Violence - Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another's intimate parts, or forcing a person to touch any person's intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks or breast, as well as the clothing covering these areas.

4.4.1. sexual violence may include, but is not limited to:

a. touching, patting, grabbing or pinching another person's intimate parts, whether that person is of the same sex or the opposite sex;

b. coercing, forcing or attempting to coerce or force the touching of anyone's intimate parts;

c. coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another; or

d. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another;

e. threatening or forcing exposure of intimate apparel or body parts by removal of clothing.

4.5. Racial Violence - Racial violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, race.

4.6. Religious/Ethnic Violence - Religious/ethnic violence is a physical act of aggression or assault upon another because of, or in a manner reasonably related to, religion or ethnicity.

4.7. Assault - Assault is:

4.7.1. an act done with intent to cause fear in another of immediate bodily harm or death;

4.7.2. the threat to do bodily harm to another with present ability to carry out the threat.

§126-18-5. Planning by Local Boards of Education.

5.1. County boards of education, RESAs and the West Virginia Board of Education shall develop a plan or plans for the implementation of this policy. These plans shall reflect the particular needs of students to study and learn in an environment free from harassment and violence and the particular needs of staff members to work in an environment free from harassment and violence. To the maximum extent possible, these plans shall be developed collaboratively with state and local agencies that share the purposes of this policy.

§126-18-6. Complaint Procedures.

6.1. County boards of education, RESAs and the state department of education shall develop procedures to assure that any person who believes he or she has been the victim of religious/ethnic, racial or sexual harassment or violence by a pupil, teacher, administrator or other school personnel of the county board of education, or any person with knowledge or belief of conduct which may constitute religious/ethnic, racial or sexual harassment or violence toward a pupil, teacher, administrator or other school personnel has an identified mechanism to report the alleged acts immediately to an appropriate official designated by the agency's policy. Nothing in this policy shall prevent any person from reporting harassment or violence directly to the county superintendent, RESA executive director or the state superintendent, as appropriate, or to the West Virginia Human Rights Commission, or to a law enforcement agency.

6.2. County Boards of Education, RESAs and the West Virginia Department of Education shall develop appropriate procedures for investigating, reporting, and responding to violations of this policy in a manner that promotes understanding and respect. The West Virginia Department of Education shall provide each agency with a list of resources to assist in developing these procedures.

6.3. All alleged incidents of harassment or violence observed by faculty or staff must be reported to the designated investigator and appropriate action should be taken as specified in §126-18-7 and §126-18-8.

6.4. Under certain circumstances, sexual harassment may constitute child and/or sexual abuse under Chapter 49 of the West Virginia Code. In such situations, the county board of education shall comply with the provisions of law for reporting such abuse.

§126-18-7. Investigation.

7.1. The individual(s) designated by the policy to investigate shall, upon receipt of a report or complaint alleging religious/ethnic, racial or sexual harassment or violence, immediately undertake or authorize an investigation. The investigation may be conducted by agency officials or by a third party designated by the agency in accordance with this policy and the plan developed pursuant to Section 126-18-5.

7.2. The investigation must at a minimum consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and review of circumstances deemed pertinent by the investigator.

7.3. The agency shall determine whether the alleged conduct constitutes a violation of this policy.

7.4. In determining the appropriate response and/or punishment, the agency should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

7.5. The agency may take immediate steps, at its discretion, to protect the complainant, pupils, teachers, administrators or other personnel pending completion of an investigation of alleged religious/ethnic, racial or sexual harassment or violence.

7.6 The investigation will be completed as soon as practicable. The investigator shall make a written report to the head of the agency upon completion of the investigation. If the complaint involves the head of the agency, the report may be filed directly with the agency's governing board. The report shall include a determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

7.7. The result of the investigation of each complaint filed under these procedures will be reported in writing to the complainant or his/her legal guardian by the head of the agency, or, if the head of the agency is the subject of the complaint, by the president of the agency's governing board.

7.8. Confidentiality of the filing of complaints, the identity of subjects and witnesses of any complaint and of any action taken as a result of such complaint is essential to the effectiveness of this policy. Only those individuals necessary for the investigation and resolution of the complaint shall be given information about it. Therefore, the right of confidentiality of complainants, subjects, witnesses, and investigators will be vigorously protected and violations of such confidentiality may itself be grounds for disciplinary action.

§ 126-18-8. Agency Action and Reporting.

8.1. Upon receipt of a report substantiated by the investigation, the head of the agency or the agency's governing board will take appropriate action against those found to have violated this

policy. Such action may include, but is not limited to, warning, suspension, exclusion, expulsion, termination and revocation of licensure.

8.2. The head of the agency or the agency's governing board shall also initiate such other action as is appropriate to ease tensions and to affirm the values of respect and understanding, in accordance with the agency's plan developed pursuant to §126-18-5.

8.3. The head of the agency shall immediately file a report with the West Virginia Department of Education of all reports of harassment or violence when investigation shows that harassment or violence did occur and all action taken in response to the incident.

§126-18-9. Reprisal.

9.1. The agency will develop discipline procedures to take appropriate action against any pupil, teacher, administrator or other school personnel who retaliates against any person who reports alleged religious/ethnic, racial or sexual harassment or violence or any person who testifies, assists or participates in an investigation, or who testifies, assists or participates in a proceeding or hearing relating to such harassment or violence. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. The agency will develop a discipline process to take appropriate action against any pupil, teacher, or administrator or other school personnel who falsely reports religious/ethnic, racial, or sexual harassment.

§126-18-10. Right to Alternative Complaint Procedures.

10.1. These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the West Virginia Human Rights Commission, initiating civil action or seeking redress under the state criminal statutes and/or federal law.

§126-18-11. Prevention Programs.

11.1. Each agency must develop and implement an education program for each programmatic level, K-4, 5-8, and 9-12, as well as a program for all faculty and staff. The programs, at a minimum, must: raise awareness of the different types of harassment; how it manifests itself; its devastating emotional and educational consequences; and its legal consequences. In addition, multicultural education programs must be developed and implemented for faculty, staff and students to foster an attitude of understanding and acceptance of individuals from a variety of cultural, ethnic, racial and religious backgrounds.

§ 126-18-12. Dissemination of Policy and Training.

12.1. This policy or a summary shall be conspicuously posted throughout each agency's facilities in areas accessible to pupils and staff members.
12.2. This policy shall appear in the student and staff handbooks, and, if no handbook is available, a copy will be distributed to all students, faculty, and staff.
12.3. The agency will develop and implement training for students and staff on these regulations and on means for effectively promoting the goals of this policy.
12.4. The agency policy shall be reviewed at least bi-annually for compliance with state and federal law and state board of education policy.

§126-18-13. Assessment of Effectiveness.

13.1. The West Virginia Department of Education will prepare an annual report to the West Virginia Board of Education to include: reported and substantiated incidences of harassment and/or violence; action taken in response to incidents; training and staff development offered by the agencies; and agency reported numbers and types of multicultural education offerings.

December 16, 1996

SUGGESTED STUDENT HANDBOOK POLICY INFORMATION

Racial, Sexual, Religious, Ethnic Harassment and Violence Policy (Policy 2421)

It is the policy of _____ County Schools that racial, sexual, religious/ethnic harassment and violence will not be tolerated under any circumstances. We firmly believe that all persons are to be treated with respect and dignity. Harassment and violent incidents will be responded to in a manner that effectively deters future incidents.

Racial, sexual, religious/ethnic harassment and violence refers to unwelcome and unwanted behavior related to sex, race, religion, or ethnic group that makes the recipient feel afraid, embarrassed, helpless, angry or unsafe or upsets the recipient to the point that he/she cannot learn, cannot teach or be effective at school or at his/her job.

Harassment and violence is prohibited between staff members, between staff members and students, between students, and from members of the public directed at students or staff on school property or at school sponsored events. Some examples of harassment and violence may include, but are not limited to: unwelcome patting, pinching, or physical contact; obscene gesturing or calling someone gay; ethnic or racial slurs; or threats, insults, or assaults against someone due to their sex, race, religion or ethnic group.

If a staff member or student feels that his/her emotional well-being, his/her sense of safety and security or sense of self-worth is being affected by such conduct, a complaint should be filed by contacting his/her school principal or by calling:

Name of designated investigator(s):

_____
(county or school determined)

Name of county:

_____

Phone number:

_____

A complete copy of the WV Board of Education Policy 2421 may be obtained from the [local]_____Board of Education by calling _____

_____COUNTY SCHOOLS HARASSMENT COMPLAINT FORM STUDENT COMPLAINT

Name:_____

Date:_____

School:_____

Who was responsible for the harassment?_____

_____

Describe the harassment._____

_____

(Attach additional pages if necessary)

Date(s), time(s), and place (places) the harassment occurred._____

_____

Were there other individuals involved in the harassment?_____

If so, name the individual(s) and what their role was._____

_____

Did anyone witness the harassment?_____ If so, name the witnesses._____

_____

What was your reaction to the harassment?

_____

_____

Describe any prior incidents.

_____

_____

Signature of Complainant or Parents/Legal Guardians

_____

White Copy: School
Yellow Copy: County Office
Pink Copy: Student/Parents Copy

Memorandum of Understanding between New Jersey Education and Law Enforcement Officials

Concerning Suspected Hate Crimes or Bias Incidents Occurring on School Grounds or Involving Students

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MEMORANDUM OF AGREEMENT BETWEEN EDUCATION AND LAW ENFORCEMENT OFFICIALS CONCERNING SUSPECTED HATE CRIMES OR BIAS INCIDENTS OCCURRING ON SCHOOL GROUNDS OR INVOLVING STUDENTS

PREAMBLE

The parties to this Agreement hereby pledge their continuing commitment to work together to address the evolving problem of hate crimes and bias incidents, as defined herein, which may occur on school grounds or which may involve students. It is the avowed policy of the undersigned parties to treat all suspected or confirmed hate crimes and bias incidents as serious matters which deserve a prompt, firm and predictable response. The parties to this Agreement recognize that one of the best hopes for deterring this form of anti-social conduct is to affirm, by word and by deed, that such acts will not be tolerated. The parties further recognize the need to have in place clearly defined policies and procedures so that all law enforcement officers, school administrators and professional staff members and other employees of the school district will know what they are expected to do in the event of the commission of a hate crime or bias incident on school grounds or involving school-aged children.

The parties further recognize that because the problem of hate crimes and bias incidents is evolving, it will be necessary periodically to confer and to refine the policies, procedures and protocols set forth in this Memorandum of Agreement so as to remain responsive to emerging threats and so as best to protect the interests and well being of all school children, other members of the school community and members of the community-at-large.

ARTICLE I. STATEMENT OF POLICIES, FINDINGS AND OBJECTIVES.

1. Regrettably, hate crimes and bias incidents occur with alarming frequency in our society. The communities victimized by this form of anti-social behavior are gripped by uncertainty, tension and conflict. Hate crimes and bias incidents, by their nature, are confrontational, inflame tensions and promote social hostility. These acts jeopardize the active and open pursuit of freedom and opportunity. They represent nothing less than a direct attack upon the racial, religious and ethnic heritage of our citizens.

2. Recently, the New Jersey Legislature has adopted laws which make it especially serious crimes for persons to commit certain predicate offenses where these persons act, at least in part, with ill will, hatred or bias toward, and with a purpose to intimidate, an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity. The parties to this Agreement recognize that such laws are designed to punish conduct, not speech. The parties to this Agreement recognize in this regard that the First Amendment of the United States Constitution, and its State constitutional counterpart guarantee freedom of expression, which includes the right to express bigotry, hatred and ignorance. However, the

parties to this Agreement further recognize that the application of First Amendment principles is different with respect to speech or conduct occurring in elementary and secondary schools. Accordingly, it is well accepted that school administrators have a legitimate interest in preserving the order and decorum of schools, and that certain forms of speech, though otherwise protected under the First Amendment, may impinge on other student's rights, may impermissibly disrupt the orderly operation of a school and thus materially and substantially interfere with the requirements of appropriate discipline of a school.

3. Although all hate crimes and bias incidents are serious matters which deserve prompt attention by appropriate law enforcement authorities, the parties to this Agreement recognize that such incidents are especially serious when they occur on school grounds or involve school-aged children. Hate crimes and bias incidents by their nature have the great potential to disrupt the educational environment and thereby deprive students and educators of their fundamental rights.

4. The parties further recognize that school-aged children are especially vulnerable to the emotional injury often associated with the commission of hate crimes and bias incidents. Too often, such acts may have lasting, negative effects on the social development of child victims. Moreover, while hate crimes and bias incidents are likely to provoke a violent response even when committed against adult victims, the parties to this Agreement recognize that the potential for violent retaliation is even greater when such acts are committed against adolescent victims, who may not yet possess the social skills or maturity to address their frustrations and anger without resorting to violence.

5. The parties to this agreement recognize that what may at first blush appear to be a minor incident can quickly escalate into an order maintenance problem affecting the public safety. The parties thus recognize that the effects of a given hate crime or bias incident may extend well beyond the confines of school grounds, and may lead, for example, to retaliatory action taken outside of school grounds or outside normal operating school hours.

6. The parties to this Agreement further understand the nature of the so-called "copycat" phenomenon, whereby a given hate crime or bias incident can lead to the commission of similar incidents. Experience has shown that the problem is exacerbated where the official response to a given hate crime or bias incident is weak or tentative. In essence, the failure to take stern, prompt and decisive action in response to a hate crime or bias incident may serve unwittingly to enable or otherwise encourage the commission of further hate crimes and bias incidents. The parties further recognize that a prompt response is essential to defuse a potentially volatile situation, to prevent further physical or emotional injury, and to assist in the identification and apprehension of the person or persons who committed the bias incident or hate crime.

7. In sum, and for all of the foregoing reasons, the parties to this Agreement affirm their belief that hate crimes and bias incidents are simply incompatible with the basic educational mission and the environment of a school.

8. The problem of hate crimes and bias incidents is an evolving one, and statistics reported by the Attorney General reveal that the problem is growing. It is at least possible that this may be the result of a reporting phenomenon, where more citizens have become more keenly aware of the impact of hate crimes and bias incidents, and are more willing to report such acts because they earnestly expect that public officials will respond appropriately. It is imperative for the undersigned parties to take such actions as are necessary and appropriate to ensure and enhance public confidence in the ability and commitment of government officials to take affirmative actions in response to these types of offenses.

9. Statistics compiled as part of the Uniform Crime Reporting System confirm that many hate crimes are committed by children. Often, these offenders are motivated by ignorance as much as by hate, and some offenders seem to be attempting to gain attention to themselves by committing acts which many of them believe to be little more than childish pranks. Even so, the parties to this Agreement recognize that such acts, even if committed out of ignorance more than actual hate, are hurtful and disruptive, and cannot and will not be tolerated in this jurisdiction.

10. The parties to this Agreement recognize that we all have a responsibility to protect the rights and interests of children, and to ensure their emotional well being. It shall be the overriding policy established in this Memorandum of Agreement to provide students with a safe environment, one which is conducive to learning and which is free of violence, fear and intimidation.

11. The parties recognize that attendance at school provides young citizens with what is likely to be their first exposure to different cultures. Schools provide a natural setting where young people can learn the social skills which will largely determine their future attitudes and beliefs, their respect for the institutions of government, and their tolerance for persons of different religions, races, colors and ethnic backgrounds.

12. The parties to this Agreement recognize that some bias-based acts committed in schools may warrant a firm and decisive response even though, technically, such acts are not crimes and thus do not invoke the limited jurisdiction of the criminal and juvenile justice systems. The parties recognize in this regard that the definition of "bias incident," as set forth herein, is broader than the definition of "hate crime," so that certain bias incidents, though deserving of condemnation, discipline and remediation, do not constitute hate crimes which could be prosecuted by police and prosecuting agencies.

13. Despite the recent adoption of legislation condemning hate crimes, it is difficult for many people fully to appreciate what it feels like to be part of an ethnic, racial or religious group which has been terrorized or subject to this form of purposeful intimidation.

14. In responding to the evolving problem of hate crimes and bias incidents, the parties recognize that they must not focus entirely on responding to those persons who commit these anti-social or criminal acts; rather, the parties recognize the

need also to work with the victims of these acts so as to reduce their trauma, as well as to reduce and redress community tensions and fears by reaching out to victims and potential victims.

ARTICLE II. DEFINITIONS.

As used in this Memorandum of Agreement:
"Hate crime" means any suspected or confirmed offense or unlawful act which is directed at or occurs to a person, private property, or public property on the basis of race, color, religion, sexual orientation or ethnicity. An offense is bias-based and thus constitutes a hate crime for the purposes of this Agreement if the motive for the commission of the offense or unlawful act is racial, religious, ethnic or pertains to sexual orientation. The designated bias incident offenses under New Jersey law are as follows:

1. Murder
2. Manslaughter
3. Rape
4. Robbery
5. Aggravated Assault
6. Burglary
7. Larceny-Theft
8. Simple Assault
9. Fear of Bodily Violence (N.J.S.A 2C:33-10)
10. Arson
11. Criminal Mischief
12. Damage to Property; Threat of Violence (N.J.S.A. 2C:33-11)
13. Weapons Offense
14. Sex offenses (other than rape)
15. Terroristic Threats
16. Trespass
17. Disorderly Conduct
18. Harassment
19. Desecration of Venerated Objects

"Bias incident" means any suspected or confirmed act which is directed against or occurs to a person, private property, or public property on the basis of race, color, religion, sexual orientation or ethnicity. An act is bias-based and thus constitutes a bias incident for the purposes of this Memorandum of Agreement if the motive for the commission of the act is racial, religious, ethnic or pertains to sexual orientation. A bias incident need not involve an act which constitutes an offense.

In order more fully to understand what conduct constitutes a hate crime or bias incident, the ———— County Prosecutor's Office, working in conjunction with the Attorney General's Office of Bias Crime and Community Relations, will develop materials which provide examples of conduct which constitutes a hate crime or bias incident, as well as materials which describe the elements of the designated bias incident offenses under New Jersey law. These materials shall be made available to persons participating in training programs provided pursuant to Article VII of this Memorandum of Agreement, and should be consulted in determining whether a given act constitutes a hate crime or bias incident. Any questions concerning whether a given act constitutes a hate crime or bias incident may be directed to the ———— County Prosecutor's Office in accordance with the provisions of Article VI C. of this Memorandum of Agreement.

ARTICLE III. REFERRAL PROCEDURES.

A. Mandatory Referral of Suspected Hate Crimes.

Whenever any school employee in the course of his or her employment develops reason to believe that 1) a hate crime or bias incident has been committed or is about to be committed on school property or has been or is about to be committed by any student, whether on or off school property and whether or not such offense was or is to be committed during operating school hours, or 2) that a student enrolled in the school has been or is about to become the victim of a hate crime or bias incident, whether committed on or off school property or during operating school hours, the school employee shall immediately notify the building principal and superintendent, who in turn shall promptly notify the ———— Police Department and the Bias Investigation Officer for the ———— County Prosecutor's Office, provided however that the building principal or superintendent of schools will immediately notify the ———— Police Department or the ———— County Prosecutor's Office Bias Officer where there is any reason to believe that an act of violence has been or is about to be physically committed against a student or there is otherwise reason to believe that a life has been or will be threatened.

B. Presumptive Referral of Suspected Bias Incidents.

Whenever any school employee in the course of his or her employment develops reason to believe that a bias incident has been committed or is about to be committed on school property, or has been or is about to be committed by any student, whether on or off school property and whether or not such bias incident was or is to be committed during operating school hours, the school employee should immediately notify the building principal and superintendent, who in turn should promptly notify the ———— Police Department.

In deciding whether to refer the matter to the ———— Police Department or ———— County Prosecutor's Office, the principal of the school or his or her designee should consider the nature and seriousness of the conduct and the risk that the conduct posed to the health, safety or well-being of any student, school employee or member of the general public. The building principal and superintendent should also consider that the ———— Police Department or the ———— County Prosecutor's Office may possess or have access to other information which could put the suspected bias incident in proper context, could shed light on the motivation for the act, or may help to identify the person who committed the suspected bias incident or some other unsolved hate crime. Furthermore, the building principal and superintendent should consider the possibility that the suspected bias incident could escalate or result in some form of retaliation which might occur within or outside school property.

C. Nature of Referral

It is understood and agreed that a mandatory or presumptive referral to the ———— Police Department or ————

County Prosecutor's Office pursuant to this Article is only a request to conduct an investigation and constitutes nothing more than the transmittal of information which might be pertinent to any such law enforcement investigation. The parties understand and agree that a referral pursuant to this Article is not an accusation or formal charge. Accordingly, it is understood and agreed that a referral pursuant to this Article is predicated on the basis of a reasonable suspicion, which is less than probable cause to believe that a hate crime or bias incident has been committed, less than the proof sufficient to sustain an adjudication of delinquency or a finding of guilt in a court of law, and less than the proof sufficient to justify the imposition of school discipline. Accordingly, and given the nature and purpose of a referral, the parties hereby agree and understand that all doubts should be resolved in favor of referring a matter to the ———— Police Department or the ———— County Prosecutor's Office

D. Concurrent Jurisdiction.

Unless the ———— Police Department or the ———— County Prosecutor's Office requests otherwise, it is understood and agreed that school officials may continue to investigate a suspected hate crime or bias incident occurring on school property, and may take such actions as are necessary and appropriate to redress and remediate any such act. The parties to this Agreement understand that school officials have an independent authority to conduct investigations and to discipline students who violate school rules, regulations or codes of conduct, which may include but need not be limited to the imposition of an in-school suspension. The parties understand that the imposition of such discipline does not in any way constitute "double jeopardy" or otherwise limit, preempt or preclude any appropriate action by a law enforcement agency, a Juvenile Conference Committee or a Juvenile Court.

Where the ———— Police Department or the ———— County Prosecutor's Office believes that the continuing conduct of a concurrent investigation, or the imposition of any form of school discipline, would in any way jeopardize an on-going law enforcement investigation, or otherwise endanger the public safety, the ———— Police Department or the ———— County Prosecutor's Office shall immediately notify the school principal and the superintendent of schools, whereupon the school principal and superintendent will immediately discontinue any ongoing school investigation, and will take no further action without providing notice to and receiving the assent of the ———— Police Department or the ———— County Prosecutor's Office.

ARTICLE IV. PRESERVATION OF EVIDENCE.

The parties to this Agreement understand and appreciate the importance of delicately balancing the need to preserve physical evidence so that persons who commit hate crimes or bias incidents can be quickly apprehended and fully and fairly prosecuted, as against the need to minimize the harm associated with the continued exposure to children of bias-based graffiti and other forms of physical evidence of a bias crime or hate incident.

School officials hereby agree to secure and preserve any such graffiti or other evidence of a suspected hate crime or bias incident pending the arrival of the ———— Police Department or the ———— County Prosecutor's Office. Where feasible, such graffiti or other evidence should be covered or concealed in a manner designed to minimize the harm and continued exposure to students of such evidence, but which will not permanently damage or destroy such evidence or otherwise limit its utility in an ongoing investigation or prosecution.

The ———— Police Department and the ———— County Prosecutor's Office agree to photograph or otherwise document the location and content of any such graffiti or other bias-based evidence as soon as possible, so that such graffiti or other evidence may be permanently painted over, sandblasted, or otherwise removed or eliminated at the earliest opportunity.

ARTICLE V. LAW ENFORCEMENT RESPONSE TO MANDATORY AND PRESUMPTIVE REFERRALS.

A. Prompt Response.

The ———— Police Department and the ———— County Prosecutor's Office agree to treat all matters involving suspected or confirmed hate crimes or bias incidents occurring on school property or involving school-aged children as serious matters which warrant a prompt, decisive and thorough law enforcement response. The ———— Police department and/or the ———— County Prosecutor's Office agree to respond promptly to any referral made pursuant to Article III of this Memorandum of Agreement, provided, however, that the ———— Police Department or the ———— County Prosecutor's Office will immediately dispatch an officer to the scene of a suspected school-based hate crime or bias incident where the building principal or school superintendent has conveyed the fact that the suspected act involved actual violence against a student or involves a threat against the life of a student, school employee or any other person. Furthermore, the ———— Police Department and the ———— County Prosecutor's Office agree to respond as soon as possible to any suspected incident involving bias-based graffiti or other such evidence so that such graffiti or other evidence can be photographed or otherwise documented in accordance with the provisions of Article IV of this Memorandum of Agreement and so that the graffiti or other evidence can be removed or otherwise destroyed at the earliest possible opportunity in order to minimize continued exposure and harm to the student population.

B. Protective Services.

The ———— Police Department and the ———— County Prosecutor's Office are available on request, and subject to the availability of resources, to provide protective services to any victim or potential victim of a hate crime. The ———— Police Department and the ———— County Prosecutor's Office agree to take such steps as are necessary and appropriate in the circumstances to prevent further violence or harm committed

against a victim, or to prevent a violent retaliation or any other physical or psychological harm directed against any student or any person. The responding law enforcement officer shall evaluate the circumstances of the suspected or confirmed hate crime or bias incident and shall report to his or her superiors immediately concerning the need for providing any such protective services to or on behalf of any victim or potential victim.

C. Full Investigation.

The ———— Police Department and/or the ———— County Prosecutor's Office shall upon receipt of any information pursuant to Article III of this Memorandum of Agreement conduct a full and thorough investigation in accordance with the Bias Incident Investigation Standards promulgated by the Attorney General.

D. Advice as to Bias Incident Investigation Standards and Juvenile Justice System Practices and Procedures.

The ———— Police Department and the ———— County Prosecutor's Office shall be available on an ongoing basis to explain to school officials the provisions and requirements of the Bias Incident Investigation Standards promulgated by the Attorney General, and the practices and procedures of the juvenile justice system with respect to the handling of juveniles suspected of or formally charged with acts of bias-based delinquency. The ———— Police Department and the ———— County Prosecutor's Office shall also provide on an ongoing basis information concerning the services and resources available within the juvenile justice system to deal with bias-based acts of delinquency, including stationhouse adjustments, referrals to juvenile conference committees and other pre-adjudication diversion programs, and post-adjudication disposition options which are available in the county.

E. Agreement Not to Disrupt School Environment or Activities.

The ———— Police Department and the ———— County Prosecutor's Office hereby agree that in conducting an investigation into a suspected or confirmed hate crime or bias incident in accordance with the Attorney General's Bias Incident and Investigation Standards, the ———— Police Department and the ———— County Prosecutor's Office will minimize to the greatest extent possible any disruption of the school environment and school activities. Accordingly, in the absence of compelling and extraordinary circumstances, the ———— Police Department and the ———— County Prosecutor's Office will not conduct interviews of students with respect to a suspected or confirmed hate crime or bias incident during normal school operating hours without first providing notice to the building principal and superintendent of schools.

F. Notification by Police.

Where a formal complaint is filed against a student for any offense which if committed by an adult would be an indictable hate crime, the ———— Police Department or the ———— County Prosecutor's Office will, in accordance with the provisions of N.J.S.A. 2A-4A-60c, provide information on a confidential basis to the building principal of the school at which the student is enrolled concerning the offense charged and any resulting adjudication or disposition.

G. Arrest Protocols.

The ———— Police Department and the ———— County Prosecutor's Office hereby reaffirm their commitment to comply with the arrest protocols as set forth in Article 2 Section G of the "Memorandum of Understanding Between Education and Law Enforcement Officials Concerning Law Enforcement Activities Occurring on School Grounds and the Reporting of Suspected Drug and other Offenses by School Officials To Law Enforcement Authorities," which arrest protocols and procedures are hereby incorporated by reference and adopted herein.

ARTICLE VI. VICTIMS SERVICES.

A. Availability of Services.

The ———— County Prosecutor's Office maintains a Victim/Witness Unit which provides services to all victims of crime in ———— County. The ———— County Prosecutor's Office remains available to provide counseling and other services to the victims or potential victims of hate crimes and bias incidents. All requests for victim/witness services should be directed by the building principal or local superintendent of schools to the ———— County Prosecutor's Office.

B. Predisposition Impact Statement.

In the event that a hate crime or bias incident results in a criminal conviction or adjudication of delinquency, the ———— County Prosecutor's Office will solicit information from all victims, potential victims and other members of the school community who were in any way harmed or traumatized by the unlawful act. Such information shall be included in a "community impact statement" which will be provided to the court by the county prosecutor and which will serve to advise the court as to the true impact of the offense and its effect on school children and the residents of the affected community, so as to begin the difficult healing process following the conviction or adjudication of delinquency. The ———— County Prosecutor's Office will solicit the input and assistance of the building principal, the local superintendent of schools and other appropriate school employees, as may be designated by the building principal or local superintendent, to ensure the prompt preparation of a thorough and accurate community impact statement for use by the courts. No student shall be solicited for input in the development or preparation of a community impact statement without a representative of the Prosecutor's Office first providing notice to the building principal and local superintendent.

C. Legal Advice.

The ———— County Prosecutor's Office shall be available on a 24-hour basis to answer any questions posed by the building principal or the local superintendent of schools regarding New Jersey's laws

concerning hate crimes or bias incidents, the Bias Incident Investigation Standards promulgated by the Attorney General, or the implementation of this Memorandum of Agreement. Nothing in this Article shall be construed in any way to preclude the building principal, local superintendent or any other school official from soliciting legal advice from the school board attorney or any other attorney representing the school district.

D. Seminars and Public Education Concerning Hate Crimes and Bias Incidents.

Representatives from the ———— Police Department and the ———— County Prosecutor's Office will be available upon invitation of the building principal and local school superintendent to address students, teachers and/or parents concerning the nature, prevalence and impact of hate crimes and bias incidents.

E. Instruction to Students.

The parties to this Agreement understand and accept that education emerges as one of the most promising means available by which to promote racial, ethnic and religious tolerance and by which to prevent the commission of hate crimes and bias incidents. Toward that end, a number of innovative programs and curricula have been developed by numerous organizations, which are designed to teach students about the nature and history of discrimination. For example, the Department of Education and the Attorney General's Office of Bias Crime and Community Relations has developed a Prejudice Reduction Education Program. It is understood and agreed that education officials are at all times ultimately responsible for providing, supervising, monitoring, evaluating and otherwise ensuring the consistent high quality of all educational curricula and instructional programs provided to students, whether the instruction is to be provided generally to the student population as part of the regular curriculum or is to be provided to select students who are subject to in-school suspension or any other form of school-based discipline. It is understood and agreed that no law enforcement officer shall be permitted to provide a course of instruction to students, or to address students on the subject of hate crimes or bias incidents in an assembly, unless the officer has been invited or requested to provide such course of instruction or address by the building principal or local superintendent, or the course of the instruction has been approved by an appropriate school official.

ARTICLE VII. TRAINING.

The parties to this agreement recognize that the enlightened principles, policies and procedures established herein to address the evolving problem of hate crimes and bias incidents occurring on school property or involving school students can only work where steps are taken to make certain that all school employees, including but not limited to professional staff members, are aware of the rights and responsibilities established in this Memorandum of Agreement. So as to foster and initialize the spirit of communication and cooperation underlying this Agreement, the chief school administrator hereby agrees to establish a training program, to be developed in conjunction with the ———— Police Department and the ———— County Prosecutor's Office, to provide instruction and orientation to all appropriate school district employees concerning the need for and provisions of this Memorandum of Agreement. This instruction and orientation program shall stress the importance of responding promptly, decisively, and predictably to all suspected or confirmed hate crimes or bias incidents occurring on school property or involving students. The ———— Police Department and the ———— County Prosecutor's Office remain available to assist in any way necessary in developing or providing this orientation to school staff.

ARTICLE VIII. MAINTENANCE OF THE AGREEMENT.

A. Revisions.

This Memorandum of Agreement shall remain in full force and effect until such time as it may be modified. Modification of this Agreement will be effected only with the mutual agreement of the ———— Superintendent of Schools, the ———— County Superintendent of Schools, the ———— Police Department and the ———— County Prosecutor. Modification required by a change in state or federal law, rules or regulations or applicable guidelines or executive directives shall be made on the effective date of such revisions of law, regulations, guidelines or directives. All parties to this Agreement will notify the other parties immediately regarding any such legal or regulatory changes.

In addition, it is understood that given the evolving nature of the problem of hate crimes and bias incidents, it will be necessary periodically to review the content and implementation of this Agreement. Accordingly, the ———— County Prosecutor, working in conjunction with the ———— County Superintendent of Schools, the ———— Superintendent of Schools and the ———— Police Department, will not less than once each calendar year organize and conduct a meeting of representatives from the law enforcement and educational communities to discuss the implementation of the provisions of this Memorandum of Agreement, to discuss any other matters of mutual concern, and to recommend necessary revisions to this Agreement.

B. Interpretation of the Agreement.

The parties to this agreement recognize the value of cooperation and communication with respect to the problem of hate crimes and bias incidents as it relates to students and school grounds, and believe that entering into this Agreement will help them to be more effective in dealing with these problems and in making certain that schools are safe havens for law abiding children, and not places where children are subject to hate, violence, intimidation or fear based upon race, religion, ethnic background or sexual orientation.

The parties to this Agreement recognize and affirm that the provisions of this Agreement are designed to supplement, but not to replace, the provisions of the Memorandum of Understanding Between Education and Law Enforcement Officials Concerning Law Enforcement Activities Occurring on School Grounds and the Reporting of Suspected Drug and other Offenses by School Officials to Law Enforcement, which other memorandum of agreement was signed on or about _____, 19__, and which remains in full force and effect. However, to the extent that the provisions of this Memorandum of Agreement are more specific, this agreement shall be deemed to govern.

As an expression of our mutual concern and commitment to students, and to the level of cooperation and understanding described in this Agreement, the undersigned parties do hereby affirm and agree to abide by the standards, procedures, principles and policies set forth in this document.
[Signatures]

Edmonds School District

Mountlake Terrace High School Comprehensive Plan for Addressing Racial and Ethnic Tensions

Marcia Migdal
Multicultural Program
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OUR MISSION: To ADVOCATE for all students by PROVIDING a learning environment which EMPOWERS students, staff and the community to MAXIMIZE their personal, creative and academic potential in order to BECOME lifelong learners and responsible world citizens.

The Coordinator for Multicultural Education has worked together with the administration and staff and students of Mountlake Terrace High School (MTHS) to put together and implement this draft comprehensive plan. Following a summary of the actions taken during the 1994-95 school year, the plan makes projections about effective steps to continue efforts begun to strengthen commitment to the goals of the program and institutionalize treatment of multicultural concerns within the everyday operation of the school.

1994-1995

I. School-wide Introduction to Concerns About Intergroup Relations

A. Staff Introduction: Two teachers and the Multicultural Coordinator presented a program to the entire staff as part of a 1/2 day in-service. The program consisted of the viewing of the Teaching Tolerance History of the Civil Rights Movement video, "A Time for Justice." This was followed by a discussion, and then by a format for presenting this to all students. Staff were to lead discussions about the material in this film, as well as its implications for today and for MTHS, in their classrooms.

B. Student Introduction: As part of its commemoration of Dr. Martin Luther King Jr., MTHS presented the video, "A Time for Justice" to all students at the same time, utilizing the Channel 1 video hookup. Teachers in every classroom then conducted discussions on the material. Students were also asked to write impressions and ideas about their own actions, past and future, regarding the quest for justice for all.

C. Several of the student responses were published in the student newspaper, thus continuing the dialogue.

II. Hands Across the Campus: Two staff members and over thirty MTHS students participated in this intergroup relations program arranged through the Multicultural Office. The student component consisted of leadership development training specifically in the area of working for equity and intervening in incidents of bias, prejudice, etc. The staff members participated in the student training, as well as in a curricular component and a Train the Trainers workshop so that they could serve as building facilitators.

III. Student/Faculty Task Force: This group was called together by the principal. It consisted of the Multicultural Coordinator, the principal, all three assistant principals, the 2 staff members who attended the Hands training and who are student activities coordinators, and 10 - 14 students, some of whom had participated in the Hands Across the Campus training and some newly involved in response to an incident at school. The Task Force met for approximately 6 weeks to block out a plan of action for a comprehensive program for the school. This group also underwent intensive training in facilitating discussions and classroom lessons about racism, prejudice and stereotyping.

IV. Staff Training: The student component of the Task Force conducted a training for the entire staff during a half day in-service session. The focus of the training was on the issues of stereotyping, assumptions and prejudice. The students led the staff through a series of activities and follow-up discussions. The principal then informed the staff that teams of students would be teaching these same activities to every student in the school by presenting to third period classes over a period of 7 days.

V. Student Team Training: Two teachers and the student Task Force members identified a total of 35 students with leadership qualities and concern for equity. Together with the Multicultural Coordinator, the teachers and Task Force students conducted a three-hour training to train the additional students as facilitator teams. The students were trained in the activities which had been presented for the faculty. They received intensive training in facilitating these activities and in leading discussions to explore the implications of these activities. The Student Facilitators were divided into 15 teams of 2 or 3 each. Teams worked together to clarify roles and responsibilities, plan introductions, closings, transitions, etc.

VI. Full School Involvement

A. The two teachers conducted a discussion during a staff in-service. They presented a schedule and sign-up procedures for scheduling a student-facilitated lesson in every third period class in the school. There are a total of 55 third period classes. Several smaller classes were combined together, making a total of 45 classes altogether. Each Student Facilitator Team was to conduct a lesson in three classes during the month of May.

B. Beginning in early May, and continuing throughout the month, student facilitators conducted lessons for their fellow students during a specific time period of the day (third period was chosen). In this manner, it was assured that all students would receive this exposure to activities which helped people think about prejudice, its origins and its impact on others. The Multicultural Coordinator was present on each presentation day to visit all the classrooms and to be available to "trouble-shoot" if problems arose. Since all classroom teachers had already been exposed to the activities, they were also available to help out if the student facilitators needed assistance. Overall, the

facilitators have performed quite well, taking full responsibility for the conduct of the class. The overall reaction has been positive thus far. Some students have had experiences which have begun to change their perspective and understanding of some of these issues such as stereotyping.

VII. Parent/Community Involvement:* MTHS administration made a conscious effort to reach out to minority parents to include them in school-wide activities and decision-making processes by making overtures to insure that minority parents feel welcome and understand that their active participation in their child's education is strongly solicited. In 1994 and 1995, parents were invited to pot-luck meetings to discuss issues of concern. Invitations were sent out in several languages, so that parents could read them and not depend on their children.

1995- 1996

I. Facilitator Group Review: This student group will be convened during the late summer or early fall to review the material and reconstitute the teams to accommodate the loss of senior class members. They will design and prepare a unit to present to freshmen. They will also receive further training to assist them in their role as leaders and facilitators addressing matters of race and bias in the school.

II. Freshman Orientation: All freshmen will be exposed to the lesson designed by the Student Facilitation Teams. This exposure will take place as part of some mandatory freshman class, such as the SOAR class. The focus of the lessons will be two-fold. The first is to initiate 9th graders into the standards and expectations of MTHS regarding respect and intergroup interactions. The second purpose is to work directly with the 9th graders to address matters of racism, stereotyping and prejudice.

III. Rebuild the Facilitator Group: Freshmen and other interested students will be incorporated into the cadre of facilitators remaining after the graduation of seniors. This group, under the facilitation of the Multicultural Coordinator, will continue to explore issues of prejudice and discrimination, to learn new activities and to prepare new lessons for presentation to the entire staff and student body.

IV. School-wide Involvement: On a regular basis, approximately every two months, the Student Facilitators will present lessons, assemblies or other special programs dealing with issues of equity, prejudice, racism, discrimination, etc. to the entire staff and student body. The Student Facilitators will meet throughout the year to review videos and other materials, plan lessons, activities, and discussions appropriate for use with the student body. The intent is to keep an examination of these issues before the student body, and to work with their fellow students, as well as staff, to come to a determination of action steps to continue to improve the school environment and strengthen the atmosphere of respect for all.

V. Staff Development: The Multicultural Coordinator, together with MTHS staff and administration, will continue to develop on-going staff development programs to address concerns of staff and community around matters of diversity and discrimination. The Multicultural Coordinator will continue to alert staff to new materials to incorporate into their curriculum, as well as to additional opportunities to increase their own knowledge with regard to specific ethnic groups, and to the interaction and historical relationships among various groups in the U.S.

VI. Parent/Community Involvement:* Periodic meetings/social gatherings will be held with parents and community groups in the fall. These gatherings will provide an opportunity for parents to make the school aware of concerns and for parents and the school to work together to solve problems and address those concerns. By providing this outreach, it is hoped that such meetings will increase parent involvement as the parents come to know the school personnel and credibility is established through working together toward common goals. Eventually, the desire is for these disparate groups to meet together to solve problems of mutual concern in conjunction with the school and larger Mountlake Terrace community. It is also hoped these meetings will provide an avenue to link the minority parent communities with all of the existing school/parent programs and collaborative efforts.

Future Years

Steps one through six described for 1995-1996 will be repeated in future years, so that each new class of students is introduced to the expectations of MTHS regarding respectful treatment of all and so that this attention to equity becomes institutionalized at MTHS. It should be understood that the comprehensive program described here exists in addition to ongoing efforts to infuse multicultural perspectives throughout all areas of the curriculum. It also supplements on-going work to create and reinforce an atmosphere of mutual respect throughout the school, in and out of classrooms and formal learning situations.

* Includes language from the 1998 Edmonds School District Status of Equity Report.

Appendix B: Protocols and Checklists

- Complaint Investigation: The Basics
- Checklist for Evaluation of Grievance Procedures
- Investigating Complaints
- Checklist and Survey – Is Harassment a Problem in Your School?
- Hate Crime School Survey
- Addressing Racial Harassment – A Self-Evaluation and Planning Guide for School Districts
- Preventing and Responding to Hate-Motivated Behavior
- Sample Hate-Motivated Behavior Incident Report
- Preventing Hate Speech, Behavior and Crime
- Guidelines for Determining Hate Motivation
- Protocol on Graffiti Removal
- Conflict Intervention Teams – A Response to School Crises
- Erasing Hate – A Guide to Your Civil Rights in School

Complaint Investigation: The Basics

by Marta Larson

This ARTICLE provides **basic information** for complaint managers on methods for investigating complaints. **There is no intent or pretense that the reader of this article will become a skilled complaint investigator.** However, this article provides an outline of needed skills and a discussion of investigative techniques pertaining to all kinds of harassment encountered in school, particularly harassment that may be a violation of civil rights, a criminal offense, or a serious violation of the school's behavior code. Further information is available in the reference materials listed at the end of this article.

Complaint Investigator: Role and Responsibilities

The complaint investigator is usually a district administrator, but if not, must at least be quasi-administrative. The complaint investigator should have full authority to consult the district's legal counsel and to review reports, files, confidential documents, and any other needed materials. The investigator should report directly to the superintendent on harassment complaints, regardless of who is designated as her/his official supervisor. **The investigator must also be completely independent** in the conduct of the investigation to avoid suspicion of a biased result.

The investigator must be knowledgeable. The complaint investigator should have written materials to assist her/him in investigating cases and receive training in investigation techniques. She/he should especially know the content of the district harassment policy, related state and/or federal laws, procedures for investigating cases, due process issues, methods for minimizing district legal liability, and requirements of the Freedom of Information Act. The complaint investigator should also know how to protect her/himself against charges of defamation, malicious interference with employment, and invasion of privacy charges arising from the investigation.

The investigator must be culturally sensitive. "If the complainant [or alleged harasser] is someone whose background might include culturally different ideas about touching others, the proper amount of physical space between individuals in the workplace, eye contact, or other aspects of physical relationships between relative strangers . . . [the investigator should] **learn what baseline assumptions or ideas play a part**" (Wagner, 1992, p. 54, emphasis added)

The investigator must also be sure she/he is communicating with the complainant, alleged harasser, and witnesses effectively. If there is a communication difficulty due to language differences, lack of speech, or developmental disabilities, an interpreter who is a neutral party and not a family member should be utilized.

The investigator should use a developmentally as well as culturally appropriate approach. When interviewing children, it is especially important to avoid leading them to make statements. This is similar to concerns encountered by those investigating child abuse cases. Additionally, when interviewing students, the investigator should give them more time at the onset to become comfortable, so that they are able to tell their story as freely as possible.

The investigator is a neutral fact-finder. The investigator must keep her/his opinions private, even when hearing details of alleged behavior that are personally repugnant or seemingly unbelievable. Expressions of distaste or disbelief cause the appearance of prejudice and should be avoided. This can be particularly difficult when interviewing distraught persons where there is a strong urge to be sympathetic. The investigator should be sensitive without expressing conclusions and maintain a clear presumption of the accused harasser's innocence, balanced with concern for the alleged victim.

The investigator must make a **complete and careful investigation.** A complete investigation identifies instances of harassment, protects the district from being sued over incidents they should have known about, intercepts false charges, protects the district from liability for erroneous discipline, reduces or eliminates the amount of any damages that may be obtained by the complainant, protects possible future victims, and retains local control by avoiding court ordered remedies. The investigator must realize that a court appearance may result from the complaint investigation process and be prepared to testify regarding the preparation, objectivity, and thoroughness of the investigation.

It is not necessary to receive a formal complaint. The investigator must investigate all complaints. Even if a fearful complainant requests that the district not investigate, or is unwilling to file a formal complaint, the courts have found that districts are responsible for knowing about harassment through effective utilization of their complaint procedures and have held them responsible. However, this responsibility should not be used to elevate a relatively minor situation to the full investigation level if the problem can be solved by a simple intervention. For example, the complaint manager can go and look at graffiti in a rest room, determine whether it is offensive, and if so, have it promptly removed. In this specific situation, it is not necessary to open a file and investigate, although the situation should be monitored.

When a complaint is brought to the complaint manager's attention, she/he should **first attempt to resolve it at the informal level.** It is often better for the person who receives the complaint to pursue the possibilities of informal resolution. If the problem can not be resolved by informal means, it can be referred to a different person to investigate the complaint.

In complaints related to students, the investigator must determine whether there could be a violation of child welfare laws. **If the complaint is regarding any incident that must be reported to the police, that report should be made immediately** and the investigation placed on hold. In that case, the complaint manager should monitor the situation to ascertain whether the alleged harassment continues or escalates to a point requiring immediate intervention. If that should occur, the complaint manager should consult the district's legal counsel regarding how to proceed.

It is important to **conduct an investigation of all allegations,**

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whether or not there is a criminal case being developed on the same situation. A criminal case does not relieve the district of the responsibility for conducting an internal investigation and determining whether there is probable cause for any district discipline. It may be that the completed internal investigation will be sealed until the criminal case is concluded so that there is no danger of prejudicing the results of the criminal case. Discipline may then be rendered following the completion of the criminal case.

Many times the complainant (and/or witnesses) will request assurances of **confidentiality** as they provide information about the case. The investigator should inform all parties that to the extent possible their privacy will be protected, but they should also be informed that there is no way to conduct an investigation without interviewing the accused party or parties and witnesses.

The investigator has a responsibility to **assure confidentiality in areas that she/he can control.** This includes not disclosing facts about the investigation to others, warning those interviewed against discussing the case with others, keeping records of the investigation in locked files, and limiting information dissemination to those who absolutely must receive it. This is even more urgent when the investigator considers the necessity of protecting her/himself against charges of defamation by the accused harasser.

The complainant and witnesses should also be protected by district policy against retribution from accused harassers or their supporters. The investigator has the duty to inform them of this and to monitor the situation during and following the investigation.

Key Steps in Conducting an Investigation

Complaint investigations should be done both **promptly and thoroughly.** The investigator should begin within a very few days after learning of a harassment situation and should finish with as much speed as possible, usually within a few weeks.

The investigator should plan **all interviews carefully.** She/he should prepare a list of detailed questions designed to gain information that might prove or disprove the complaint. The investigator should never **attempt to rely on memory.** She/he should avoid wasted time by determining in advance exactly what information is wanted from each person being interviewed. The investigator should be prepared for answers that lead into another angle of inquiry by predicting what the possible answers may be and planning how to pursue those issues. For further ideas on planning interviews, investigators may refer to the sample list of questions in Wagner (1992, pp. 133-138).

Review the complainant's statement. Try to determine the basis for the complaint and gain an understanding of the issues presented (Pearman & Lebrato, 1984, p. 7). Keep notes regarding questions that arise when reviewing the statement so that they can be pursued during the investigation.

The complainant should be interviewed first to clarify the details of the complaint. As a part of the interview, the complainant should be informed about the process that the investigation will follow. This includes the complainant's legal rights, what the investigator will do, what will happen and when, the content and process of the investigation, and who will determine remedies following the investigation. Additionally, the investigator should ascertain whether the complainant has any immediate needs, such as fear, that might need to be addressed at once.

While maintaining a businesslike manner, the investigator should treat the complainant considerately and respectfully. The **complainant should be encouraged to be as specific as possible** in clarifying his or her statement including names, dates, frequency, places, and specific behavior (what happened, the complainant's response, and the outcome) along with the names and location of any witness(es). The investigator should make careful notes during the interview, both of questions that she/he asks, as well as the complainant's responses. A thorough written version of what is alleged to have happened based on the interview with the complainant, should be prepared and signed by the complainant and placed in the file. This list of allegations will later form the outline for part of the investigator's report.

An important part of the investigation is determining **the effect of the harassment** on the victim. The investigator should document whether the harassment is alleged to have had any negative effect on the complainant's job or academic performance, or whether the harassment is alleged to have created a hostile climate.

The investigator should **identify as specifically as possible the part or parts of the district policy or state/federal law that are alleged to have been violated.**

All interviews and efforts to obtain evidence should be aimed at proving whether the specified policy or law has been violated.

Assemble an investigative file and keep it in a secured location. The file should be organized so that anyone opening it could determine the main issues involved in the case and the history of the investigation. Even while the investigation is underway, the file should be maintained so that if necessary another person could assist with or even assume responsibility for the investigation. The file can also serve as a memory device, enabling the investigator to ensure that no aspect of the investigation has been overlooked.

The investigator should **keep a time line of what happened as part of the process.** This "helps set the events in the sequence in which they occurred. You can analyze this time line in terms of what was happening in the workplace at the same time, looking at the big picture for possible motivating factors or triggering events" (Wagner, 1992, p. 52). Testimony of witnesses can be added to the time line as they are interviewed, adding a rich level of detail about what actually occurred.

Define and further plan the investigation. The plan for the investigation should include the determination of "**who** the alleged harassers were, **when** and **where** the incident took place, **what** was said or done by the parties, **whether** the incident was isolated or part of a continuing practice, the reaction of the complainant, **how** the complainant was affected, **whether** anyone else witnessed the incident, **whether** the complainant has talked to anyone else about the incident, **whether** there is any documentation of the incident, and **whether** the complainant has knowledge of any other target of harassment" (Lindemann & Kadue, 1992, p. 163, emphasis added).

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The investigator should **limit the scope of inquiry.** Identify and exclude issues which are not disputed and/or have already been investigated. Screen out issues which are not relevant to district policy. Winnow the complaint down to the tightest possible list of issues for investigation.

It is helpful to prepare a step-by-step list of the investigation plan and check off each step as completed. This list should contain the names of all witnesses to be interviewed, as well as a list of all documentary evidence to be collected. Be sure to **include everyone who may have information, especially the alleged harasser.** Do not make the mistake of stopping the investigation once several witnesses or documents have been located that appear to substantiate or refute the allegations. This is especially true for the alleged harasser, as not interviewing this person could later be regarded as a weak point in the investigation. The list of witnesses may be supplemented during the course of the investigation as various interviews provide leads to other useful information or persons to interview. Similarly, the list of documentary evidence may grow as witnesses are interviewed.

Gather supporting documents and evidence. Often, it is prudent to gather these documents quickly before there is an opportunity for them to be removed from the files. The investigator should consider making unannounced visits to offices or other sites to obtain copies of documents. Another approach is to request that witnesses bring certain documents with them when they come to be interviewed, without revealing the purpose for the request. Some documentary sources of evidence include personnel file(s), student file(s), performance evaluations, and discipline records.

Visit the site where the harassment is alleged to have taken place. Sometimes such a visit can reveal specific information that tends to support or raise doubts regarding the allegations, such as physical layouts that would conceal actions from potential witnesses or make certain actions less likely to have occurred because there is no place for them to take place without witnesses. Occasionally, it can be determined that a specific action is physically possible or impossible based on site characteristics.

Conduct interviews. When interviewing the alleged harasser, begin by briefing the person on the process that the investigation will follow. Avoid using the term harassment to describe the complaint, but tell the person that "a serious matter has been raised, that she/he has been connected to it and that it involves unwelcome behavior on his or her part" (Wagner, 1992, p. 69). It is also a good idea to be sure that the alleged harasser understands that the ultimate aim of the investigation is to "end the illegal or inappropriate activity, if there is any, and take preventive measures to see that it does not recur" (Wagner, 1992, p. 70).

The investigator should be prepared to brief the alleged harasser on his or her due process rights. The alleged harasser should be advised that the investigation will be conducted in a neutral manner, cautioned regarding confidentiality, and warned against engaging in or organizing retaliation. **The allegations should be reviewed with the alleged harasser, and her/his version of the events should be elicited in the same detail requested of the complainant.** Assertions that the complainant had a motive to lie or that the conduct was welcome should be explored, and available documentation should be secured. After the interview has been completed, a signed, written statement detailing all events that took place related to the alleged harassment incident should be prepared and signed by the alleged harasser and placed in the file.

If anyone who is to be interviewed wishes to have another party including a union representative or legal counsel present, this must be allowed. The representative should not be a family member unless the person being interviewed is a minor. The role of the representative is NOT to speak for the person being interviewed, and they should not be allowed to interfere with questions that the investigator is certain are proper. However, legal counsel may advise the person being interviewed not to respond to some questions, and there is little the investigator can do at that moment to compel a response to those questions. If there is a disagreement on whether a question is proper, note that down and fight it out later (Gregg, 1992 and 1993) after consulting the district's legal counsel.

Elicit a description of what happened from the perspective of the complainant or alleged victim, alleged harasser, and witnesses. Whenever possible, information obtained in interviews should be substantiated by documentary evidence. As each person is interviewed, try to fill in chronological gaps in the time line, clarify conflicting statements, examine inconsistencies in various witness statements, and clarify conflicts with information in documentary evidence. Pursue the facts upon which voiced opinions are based. If a person has difficulty remembering things, ask questions designed to refresh her or his memory such as "Was it before or after Spring Break?"

Witnesses can substantiate evidence, provide contradictory evidence, substantiate allegations, lead to other witnesses, direct you to other data, explain documents and other data, explain policies and procedures, and connect between policies and actual practice. Witnesses can include anyone who may have seen the alleged harassment occur and/or anyone who claims to have received the same treatment from the alleged harasser. **Reliable witness information is firsthand knowledge, not something that someone else told them, unless witnesses are verifying that the complainant told them about the situation, which is a type of evidence.**

It is important to realize that **not all witnesses will want to be interviewed.** If the initial contact is on the telephone, it is sometimes necessary to conduct the interview immediately, particularly if the witness seems reluctant. If an interview reveals that a witness may also be a perpetrator, stop the interview and review the person's due process rights. Do not use group interviews, as each person's testimony will taint the other's recollections. After each interview is completed, a signed, written statement detailing the person's testimony regarding all events that took place related to the alleged harassment incident should be prepared and signed by the witness and placed in the file.

Once a preliminary round of interviews has taken place and documentary evidence has been perused, other questions or documents often come to mind, and the investigator should follow up on these in a systematic manner. Many experts recommend re-interviewing the complainant, the alleged harasser, and witnesses whose testimony is countered by other

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testimony or documentary evidence. Lindemann and Kadue (1992) suggest that,

> **All parties should have a full opportunity to rebut adverse statements.** The investigator should consider sharing tentative determinations about the truth of a harassment claim with the alleged harasser in a final interview (p.166, emphasis added).

This may facilitate the retrieval of additional information that might help to complete the investigation.

The investigator must be certain that the investigation is complete. The investigator must be sure that evidence has not been overlooked and that all witnesses are interviewed. The investigation should not be stopped until all useful information has been explored even where it tends to duplicate other information already obtained. However, this duty to conduct a complete investigation should not be allowed to delay the prompt completion of the investigation.

Reaching a Conclusion

Analyze the information. Compare the facts and circumstances of the case with the definition of harassment on a point-by-point basis, noting areas where questions remain unanswered. This analysis process can actually begin very early in the investigation with facts and information obtained during the investigation fitted into the outline like pieces into a puzzle.

The versions of what happened are often different, so the investigator must decide which have more credence. Objective proof of the charges, such as the testimony of witnesses, is the most persuasive. Unfortunately, objective proof of harassment is rarely available. It is also necessary to determine whether any of the statements obtained could be false and whether any of those making statements have any motivation to be untruthful.

Careful consideration should be given to cases where it is the complainant's word against the alleged harasser's word. **The investigator must determine to what extent the alleged conduct is likely to have occurred and whether it fits the district's definition of harassment.** The investigator should be aware that the courts have been deciding many cases on the reasonable person standard, ruling that behavior that is considered offensive by a reasonable person of the same sex, age, cultural group, etc., will be considered harassment.

As the investigation nears completion, it is a good idea to **confer with the district's legal counsel.**

> Counsel should be shown all of the documents generated, including . . . interview notes, signed statements, and records or other documents pertinent to the situation (Wagner, 1992, p. 90-91).

The investigator and legal counsel must both be satisfied that they have arrived at a defensible recommendation for action and have a plan for addressing problematic issues that arise, especially if it is possible that the perpetrator will be fired or expelled from school.

If the investigator absolutely cannot ascertain who is telling the truth, and no documentation can be discovered, it may be necessary to end the investigation with no conclusion, educate all involved regarding the district policy, and monitor the situation to see if further problems arise.

Prepare and submit the investigator's report of findings. The report should contain an executive summary section that summarizes the determination, findings, and information contained in the case file. This section should be as brief as is practicable, but it should be written clearly enough so that the reader does not have any questions that are left unaddressed.

Following the executive summary, **the findings should be listed and discussed individually.** Each allegation must be listed in this section along with a finding, conclusion, and all evidence that is available to support the conclusion. Each time a finding refers to documentary evidence, the item of evidence must be clearly referenced in the report, and copies of all documentary evidence should be included in the appendix to the report.

Another section of **the report should include anything that is found that is not harassment but is inappropriate.** This might include student disciplinary actions, personnel actions, supervisory practices, management decision making, and other actions that violate district policy, or state or federal law. Some of these actions may have been attempts to rectify the alleged harassment, or they may have been well-intentioned but incorrect behavior, and some may have been inappropriately motivated. Whatever the reasoning in undertaking these actions, they should be listed in the report and addressed by the proposed remedies.

The report should clearly state the investigator's proposed remedy or remedies if harassment has been proven or if other inappropriate actions are found. While the investigator is not always the person who sets the disciplinary action, she/he should provide a list of the potential courses of action for review by the administrator who will determine the final remedy. Care should be taken to assure that the remedy does not inadvertently punish the complainant.

The report should include a written follow-up plan in its final section to assure that no repetition of the harassment occurs and that no retaliation is taken. This follow-up plan should include regular contacts with both parties. Information about the follow-up plan should be given to both the complainant and the accused harasser, whether or not harassment is substantiated.

Once the report has been prepared, **all parties to the complaint, both the complainant and alleged harasser(s), should be informed of the results of the investigation.** In cases that end with no formal conclusion, to avoid any misunderstandings it is important to be sure that all parties understand that the complaint is neither upheld nor dismissed.

The institution should take action immediately upon receiving the report of findings. If a progressive discipline code is in effect, it should help to determine the appropriate disciplinary action. If disciplinary action is found to be appropriate, the action should be taken as soon as is possible after due process requirements are met.

A final responsibility of the investigator is to **keep records of the complaints investigated and to provide the superintendent and school board with periodic reports** (once or twice a year)

on the number and types of complaints investigated and their disposition. This is necessary even if the superintendent and board have been privy to some or all of the details of any of the investigations, as they should be monitoring the overall statistical picture to determine whether adjustments are necessary in any district policies and procedures.

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Checklist for the Evaluation of Grievance Procedures

Checklist for Evaluating the Content of Grievance Procedures

Listed below are a number of questions which may be used to evaluate the content of Title IX grievance procedures and determine possible needs for modification. Questions are organized into three sections: initiation and filing of the grievance; processing of the grievance; and basic procedural rights.

Initiation and filing of grievances:

Does the grievance procedure:

1. Provide clear and adequate definitions of who may grieve, of what issues may be covered by grievances, and of the terms used throughout the procedure?

Yes ___ No ___

2. Cover all students and employees?

Yes ___ No ___

3. Clearly state the form and procedure for filing of grievances?

Yes ___ No ___

4. Specify any applicable time limits for the initiation of a grievance?

Yes ___ No ___

5. Provide for assistance to grievants in the filing/preparation/processing of a grievance?

Yes ___ No ___

6. Specify the responsibilities of institutional/agency staff for the receipt and initial handling of grievances?

Yes ___ No ___

7. Provide methods for informal and prompt resolution of grievances when further processing is not needed?

Yes ___ No ___

Processing of grievances:

Does the grievance procedure:

1. State the number and levels of steps for grievance processing and the criteria for initial referral to each level?

Yes ___ No ___

2. State the form of grievance presentation and processing (oral/written; hearing officer/hearing panel; etc.) at each step?

Yes ___ No ___

3. Specify the criteria and procedure for the assignment of initial hearing levels?

Yes ___ No ___

4. Delineate procedures and responsibilities for notification of all parties at each processing level?

Yes ___ No ___

5. Delineate timelines for all activities within the grievance procedure?

Yes ___ No ___

6. Specify the procedures which shall be used in conducting grievance hearings?

Yes ___ No ___

--amount of time allocated to each hearing?

Yes ___ No ___

--amount of time allocated to each party to the grievance?

Yes ___ No ___

--right of each party to representation and assistance?

Yes ___ No ___

--right of each party to present witnesses and evidence?

Yes ___ No ___

--right of each party to question witnesses?

Yes ___ No ___

--roles of persons involved in the hearing?

Yes ___ No ___

--right of grievant to determine whether hearing shall be open to the public?

Yes ___ No ___

--provisions/requirements for recording the hearing?

Yes ___ No ___

7. Specify any requirements for submission of written information by grievants or respondents?

Yes ___ No ___

8. State the form and timelines for the preparation of grievance decisions?

Yes ___ No ___

9. Clearly state the procedures and timelines for the grievant's acceptance or appeal of grievance decisions?

Yes ___ No ___

10. Specify the roles and selection of persons involved in grievance processing?

Yes ___ No ___

Basic procedural rights:

Does the grievance procedure:

1. Provide grievants with the right to appeal to progressive levels of decisionmaking?

Yes ___ No ___

2. Provide assurances regarding the impartiality of hearing officers?

Yes ___ No ___

3. Provide for confidentiality of grievance proceedings if so desired by the grievant?

Yes ___ No ___

4. Provide for grievants' access to relevant institutional/agency records?

Yes ___ No ___

5. Provide for the protection of grievants and respondents from harassment and entry of information into student and personnel files?

Yes ___ No ___

6. Provide for confidentiality of grievance records if so desired by grievant?

Yes ___ No ___

Checklist for Evaluating the Implementation of a Grievance Procedure

The following checklist focuses on the implementation of Title IX grievance procedures. It is designed to be used as a guide for assisting Title IX coordinators and administrators in the installation of a grievance process or the improvement of the operation of an existing process.

Pre-implementation:

1. Has a written Title IX grievance procedure been prepared which provides for the prompt and equitable resolution of complaints of sex discrimination?

Yes ___ No ___

2. Has the Title IX grievance procedure been reviewed to ensure its compliance with any existing standards specified by relevant State and local laws/regulations, contracts with employee organizations, etc.?

Yes ___ No ___

3. Has the Title IX grievance procedure been reviewed and approved by institutional/agency governance?

Yes ___ No ___

4. Has the grievance procedure or a summary of the procedure been published and disseminated to all students and employees?

Yes ___ No ___

5. Have orientation or briefing sessions been held with students and employees to ensure their understanding of the grievance procedure and its use?

Yes ___ No ___

6. Have all employees with responsibility for the implementation of the procedure been provided briefing and information on the procedure and the requirements of the Title IX regulation?

Yes ___ No ___

7. Have persons serving as hearing officers been provided with basic orientation on grievance processing and in-depth training on the Title IX regulation, interpretive guidelines, and judicial precedents?

Yes ___ No ___

8. Have the specific assignments of staff roles and responsibilities been made for all tasks within the grievance procedure?

Yes ___ No ___

9. Have the responsibilities of the Title IX coordinator been delineated and a statement of these disseminated to all employees and students?

Yes ___ No ___

10. Is the grievance procedure available for allegations of sexual harassment?

Yes ___ No ___

Filing and initial processing of grievances:

1. Is information regarding the nature of the grievance procedure and the coverage of the Title IX regulation easily available to all employees and students?

Yes ___ No ___

2. Has a form or outline been developed which clearly states the information required for the filing of a grievance?

Yes ___ No ___

3. Can students and employees file grievances at places of maximum convenience and accessibility?

Yes ___ No ___

4. Are personnel available for assisting students and employees in the filing of grievances?

Yes ___ No ___

5. Is opportunity provided for the clarification of grievance issues and for prompt and informal resolution of grievances when further processing is not needed?

Yes ___ No ___

6. Do notification forms used at all grievance stages provide grievants and respondents with full information regarding their rights and responsibilities in the grievance process?

Yes ___ No ___

Grievance processing:

1. Are timelines and requirements for promptness fully observed in the handling of grievances at each step of grievance processing?

Yes ___ No ___

2. Are stated notification procedures fully observed?

Yes ___ No ___

3. Are grievance hearings conducted according to specified procedures?

Yes ___ No ___

4. Are records of grievance hearings maintained?

Yes ___ No ___

Grievance follow-up, monitoring, and reporting:

1. Are all grievance decisions reviewed for their implications for modification of policy, procedure, or practice beyond specified corrective steps?

Yes ___ No ___

2. Are all identified modifications and corrective steps broken down into their specific tasks, staff responsibilities, and implementation timelines?

Yes ___ No ___

3. Are all staff notified of their specific responsibilities related to the implementation of modifications and remedial steps?

Yes ___ No ___

4. Are staff provided information and assistance necessary to the implementation of modifications and corrective steps?

Yes ___ No ___

5. Are periodic surveys and reviews made to assess the implementation of modifications and corrective steps and to identify any related problems?

Yes ___ No ___

6. Are regular reports regarding the implementation of modifications and corrective steps required of all staff?

Yes ___ No ___

7. Are records of grievances, grievance processing, and modifications and corrective steps maintained for a three-year period?

Yes ___ No ___

8. Are all detailed grievance records (those identifying involved parties) maintained on a confidential basis and without notation in student or personnel files?

Yes ___ No ___

9. Is a set of open records regarding grievance resolutions and precedents (parties unidentified) available to students, employees, and other interested persons?

Yes ___ No ___

10. Are regular reports of grievance precedents and compliance efforts disseminated to all students, employees, and governance persons?

Yes ___ No ___

11. Are continuing assessments made of the understanding of students and employees regarding Title IX provisions and the Title IX grievance procedure?

Yes ___ No ___

From *Title IX Grievance Procedures: An Introductory Manual*, originally developed by the National Foundation for the Improvement of Education, and revised and reprinted by the U.S. Department of Education, Office for Civil Rights, 1987. This publication provides suggestions which schools may find useful in formulating and implementing grievance procedures for addressing allegations of discrimination, including allegations of harassment. It is not intended to establish compliance standards.

Investigating Complaints

Implementing the Harassment Investigation

A thorough investigation, followed by prompt remedial action, is the best course of action to take when an incident of harassment is reported. But did you know that how you investigate can protect you from liability? Here are some things you should do to help keep your internal investigations on the up-and-up.

Before the investigation:

- DO select the proper investigator. The person should be familiar with board policies and procedures.
- DO plan the investigation. Decide whom you will interview and what physical evidence you will need.
- DO prepare a strategy so you can gather the necessary information in the fastest manner possible with minimal disruption to the work force.

When speaking with witnesses:

- DO prepare your questions in advance to assure that you ask all witnesses the same questions.
- DO interview witnesses in private, and emphasize that those with a legitimate "need-to know" will be given interview information.
- DO take detailed notes during the interview, including the name of the witness, the date and time of the interview, when it was held, who was present, and -- most importantly -- what was said.
- DO have the witness write up his/her own statement and have him/her sign it.

After the investigation:

- DO assess the information you've gathered, and decide if there's enough evidence to make a fair and reasonable decision.
- DO summarize your findings. Complete a report, showing precisely how you handled the investigation and what facts you found to be true.
- DO take appropriate action based on the facts of the investigation. Make sure the action is consistent with policy and past practice.

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What Everyone Needs to Know about Handling Harassment

- Take the report seriously. Assure the person that the complaint or problem is being taken seriously and that the institution will respond to the problem promptly.
- Listen, sympathize, but don't judge. Listen to what the person has to say, sympathize, but make no judgment or commitment regarding the allegations or how the investigation will be conducted. Do assure the person that the institution takes harassment seriously and will not tolerate it.
- Don't delay. If you are not the individual designated to process harassment complaints, tell the complainant who is responsible and offer to help contact that person. If that person is not immediately available, tell the complainant you will follow through immediately after this interview. Then do it as soon as possible. Delays of even a few days can make investigations difficult or send a signal to the complainant that the institution is not taking the complaint or problem seriously.
- Respond to concerns. If the complainant expresses or indicates fear, assure the person that the institution will do everything in its power to ensure confidentiality (but make no promises), prevent retaliation and stop further harassment. If you are the person designated to process complaints or investigate them, answer any questions about the complaint process that will not jeopardize the investigation. If you are not the appropriate person to process a complaint, assure the complainant that his or her questions will be answered by the appropriate person.
- Document. Write a detailed summary of what the complainant told you, including your observations of the person's demeanor. Submit it to the individual who will be processing the complaint.
- Follow up on the complaint. Check with the complainant the next day to ensure that he or she is getting needed assistance.
- Avoid using "Dangerous Words," such as "It's just teasing—no big deal."

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Legal Issues Associated With Investigations

- Confidentiality. Tell persons interviewed that you will try to ensure that the complaint process will be kept as private as possible. But DO NOT PROMISE COMPLETE CONFIDENTIALITY because that may be impossible to deliver. Restrict all comments to a "need-to-know" basis.
- Non-retaliation. While absolute confidentiality cannot and should not be promised to anyone involved in a harassment investigation, a pledge of non-retaliation can and should be made immediately.
- Defamation. Avoid making any statement or comment about

an alleged harasser. Restrict all comments to a "need-to-know" basis and have solid proof to substantiate any comments made to those entitled to hear them.

- Safeguard documents. Keep pertinent records and documents safe and restrict access to those who have a legitimate need to see the information.

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On What Should Investigations Focus?

- On the effect of the behavior.
- On expected standards of behavior, as delineated in the policy, training, handbooks, etc., to see that they have been met.
- On context. When, where and in front of whom did the alleged action take place? Was it public or private? Were there witnesses? Did the situation occur on the job, on the campus or off the premises? Was it education or business-related? How were remarks spoken and body language used?
- On welcomeness. Was the behavior welcome? Was there a prior relationship? (Remember that a prior relationship is not a defense against sexual harassing behavior.)
- On patterns of behavior. Previous harassment? Prior unfounded complaints? Weak performance and evaluations?
- On establishing credibility. Seek corroboration. Consider timing of complaint and whether the complainant's delay in reporting it was justifiable.

Seek corroboration by determining if the complainant:

- told someone else about what happened;
- wrote about the behavior in a diary;
- changed behavior (e.g., dropped a course, experienced lower grades, avoided the alleged harasser, withdrew socially, developed symptoms of worsened physical or emotional health); or
- wrote a letter to the alleged harasser about the behavior.

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How to Ensure a Successful Investigation

- Take all complaints and claims seriously. Never belittle, downplay or ignore a claim.
- Keep an open mind. Do not presume guilt or innocence. Do not make determinations based on the appearance, position or reputation of the people involved.
- Investigate promptly. Try to begin with 24 hours and end within 10 days, if at all possible.
- Document all parts of the investigation. Create a separate confidential file accessible only to investigators that includes interview notes, corroborating documents and the final written report. Check with legal counsel about obtaining signed statements from all parties. Do not require complainants to write a statement or complaint themselves if they prefer to make oral statements. However, they should agree with any statement you have put in writing and so indicate by initialing or signing it.
- Preserve privacy. Ask parties not to discuss the investigation except with designated personnel. Explain the reason for this, and that this is a request, not an order.
- Act in a neutral and professional manner. Remain calm and appropriately sympathetic, but do not take sides.

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Checklist and Survey: Is Harassment a Problem in Your School?

by Marta Larson

THIS ASSESSMENT has two parts: a checklist and a survey. The checklist is intended to help school personnel assess their school or district's effort to prevent harassment from occurring. The survey is intended to help school personnel assess the level of harassment actually occurring in their building. The survey does not ask the actual number of harassment events that occur but rather assesses general awareness of harassment events.

The checklist and survey can be used separately or together. They apply to harassment of both students and staff. You may want to include a definition of harassment (see pages 14-16) when circulating these materials, along with an explanation of how the results will be used and reassurance that individual responses will be kept confidential. The checklist and survey are updated versions of my checklist and survey originally published in *Title IX Line*, Vol. IV, No. 1, Fall, 1983, by our office.

Checklist: What Has Been Done to Prevent Harassment in Your School?

Check each action that has been taken in your school or district, count the number of check marks, and turn to Scoring the Checklist to see how your district rates.

1. Do you have a specific policy against harassment and a written code of conduct that publicizes it?

__ Do you have such a policy?

__ Does the policy address sexual, racial/ethnic, sexual orientation, and differently-abled harassment?

__ Does the policy contain the minimum elements of a definition, procedures, sanctions, and prescribed method for notifying people?

__ Is there a procedure to inform new employees and students of the policy?

__ Is there any reference to harassment in the student discipline code?

__ Does the student handbook contain policy language regarding harassment?

__ Does the employee handbook contain policy language regarding harassment?

__ Do union contracts and affirmative action plans for the district contain policy language regarding harassment?

__ Are student job training work sites notified of the harassment policy?

__ Are vendors and salespersons visiting the district apprised of the policy?

2. Do you have a grievance procedure to handle complaints about harassment and to monitor its effectiveness? (This may or may not be the same as other grievance procedures.)

__ Do you have a grievance procedure for harassment?

__ Does the grievance procedure provide an opportunity for informal consultation and, where appropriate, informal resolution before moving into formal procedures?

__ Does the grievance procedure provide for impartial investigation that includes fact finding, careful review, due process, and opportunity for appeal?

__ Does the grievance procedure include an appropriate remedy based on the severity of offense and institutional corrective action where there is a finding of harassment?

__ Has information about this procedure been disseminated to employees and students?

__ Is a similar grievance procedure written into any union contracts?

__ Has this procedure been disseminated to vendors and salespersons visiting the district?

3. Are you prepared to receive and respond to complaints?

__ Is there at least one complaint manager in every building in the district, including non-instructional sites such as the bus garage or district administration building?

__ Are there complaint managers of both genders, and is the group balanced by ethnicity, race, and linguistic group?

__ Do all students and staff know the name and location of at least two complaint managers?

__ Are those wishing to file a complaint allowed to go to any complaint manager they feel comfortable with, rather than being required to see the one in their building?

__ Have the complaint managers and investigators received regular yearly training?

__ Do the complaint managers meet on a regular basis to engage in group problem solving and to identify their needs for further training and support?

__ Are the complaint managers given released time from their regular duties to attend to complaint management and record keeping tasks?

__ Do the complaint managers have access to training and legal advice regarding the proper processing of complaints and potential legal liability?

__ Do administrators work cooperatively with complaint managers, i.e., are sanctions and remedies actually applied?

__ Does the administration and school board receive regular statistical reports by building and district regarding the number and type of formal and informal complaints filed and their disposition?

4. Do you foster an atmosphere of prevention by sensitizing students and staff to the issue of harassment? Does the definition of harassment make it clear that sexual, racial/ethnic, sexual orientation, and differently-abled harassment are included?

__ Does the district mission statement reflect a commitment to mutual respect for all people?

__ Has there been a training program for district administrators in the past two years?

__ Has there been a training program for district employees including job training supervisors in the past two years?

__ Has there been a training program for students in the past two years?

__ Do staff members model the use of appropriate language and behavior at all times?

__ Are pamphlets and/or posters advising students and employees about the nature of harassment and its legal implications easily found around the school?

__ Has a school-wide conference or speakout been held to sensitize the school community to the issue of harassment?

__ Is information about preventing harassment and what to do if it occurs a routine part of the K-12 curriculum?

__ Do staff members promptly intervene in situations where they observe harassment?

__ Is offensive graffiti that violates the harassment policy promptly removed?

__ Do student leaders take an active role in the effort to prevent harassment?

__ Have events where harassment flourishes, such as "flip-up" days and pep rally cross-dressing skits, been eliminated?

__ Have past incidents of harassment been resolved fairly and appropriately?

__ Do students and staff members feel comfortable talking openly about harassing incidents, problematic areas, and attitudes?

5. Have you reached out to populations of students known to be particularly vulnerable to harassment?

__ Have support groups been established for students enrolled in vocational or academic classes that are nontraditional for their gender, race, or ethnicity?

__ Are students who drop vocational or academic classes that are nontraditional for their gender, race, or ethnicity routinely surveyed to establish the reason for dropping and to determine whether harassment played any role in their decision?

__ Are student placement work sites routinely visited and evaluated for freedom from harassment?

SCORING THE CHECKLIST

37-44 points: Your district has obviously embarked upon a well planned and determined effort to eliminate harassment.

27-36 points: Although your district has many good points in its efforts to prevent harassment, there are still a few areas where improvements should be made. Locate the points on the checklist that you didn't check off and consider how you can improve the situation in those areas.

17-35 points: While you are making some efforts to prevent harassment in your district, you need to supplement that effort in many areas. Consider administering the survey to determine the level of harassment in your district, and use the results of the survey to begin identifying areas to concentrate on.

0-16 points: Your district should examine this issue from the standpoint of legal liability. Assess district policies and work toward basic awareness of the problem within the district. Set specific deadlines for completing each phase of the effort. Consider asking for assistance from an outside agency such as the Programs for Educational Opportunity.

Survey: Is Harassment a Problem in Your Building?

Please answer these questions as best you can.

1. Do you know of instances of harassment that have happened in your building?

__ yes __ no

If yes, what kind of harassment was it? (Check all that apply)

__ sexual __ racial/ethnic

__ sexual orientation __ differently-abled

If yes, was the harassment between:

__ students/students __ students/staff __ staff/staff

How many instances have you heard of in the past year?

__ one __ two to five __ six or more

2. Do you know of students who have dropped a class or had their grades affected because of harassment?

__ yes __ no

How many instances have you heard of in the past year

__ one __ two to five __ six or more

3. Do you know of staff members who were denied promotions, were fired, or who quit because someone harassed them?

__ yes __ no

How many instances have you heard of in the past year

__ one __ two to five __ six or more

4. In cases of harassment that you know about, what did the victim do? (check all that apply)

__ ignore it

__ complained to school authorities

__ told harasser to stop

__ complained to someone outside the school

__ went along with it

5. What happened in cases of harassment which you know were reported to school authorities? (Check all that apply)

__ the charge was found to be true

__ nothing happened

__ the charge was found to be false

__ the charge is still being processed

__ action was taken against the harasser

__ do not know what happened

__ action was taken against the victim

6. In cases of harassment which you know of, if the victim did nothing, why do you think she/he did nothing? (Check all that apply.)

__ did not know what to do

__ did not want to hurt the harasser

__ didn't think it was necessary to report

__ was too embarrassed

__ didn't think anything would be done

__ didn't know it was against policy

__ was afraid the harasser would get even

__ thought it would make him/her uncomfortable with her/him in building

__ didn't know it was against policy

7. How widespread do you think harassment is in this building?

__ it goes on all the time

__ it only happens to a few people

__ it happens to a fair number of people

__ it doesn't happen

Please check the categories that best apply to you:

__ male __ female

Your race/ethnicity? _____

Main language you speak? _____

Are you a __ student __ staff member __ other?

(If other, please specify.) _____

_____

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Hate Crime School Survey

School Name _____ Elementary _____ Middle _____ Junior _____ High _____

This survey is being completed during week ____ of the current school year _____

Please indicate which of the following hostile acts have occurred during the year, the approximate number of times each act occurred and whether the victim was a student, administrator, other employee, or general public.

1. Buildings or other parts of the school grounds defaced with words or symbols:

Victim	**Frequency**				
	none	1-3	4-6	7-9	10+
Student					
Teacher/ Admin.					
Other School Employee					
General Public					

2. Racial slurs or bigoted epithets:

Victim	**Frequency**				
	none	1-3	4-6	7-9	10+
Student					
Teacher/Admin.					
Other School Employee					
General Public					

3. Symbolic acts of hate, acts traditionally threatening or offensive to members of a group:

Victim	**Frequency**				
	none	1-3	4-6	7-9	10+
Student					
Teacher/ Admin.					
Other School Employee					
General Public					

4. Posting or circulating material based on stereotypes demeaning to members of a group:

Victim	**Frequency**				
	none	1-3	4-6	7-9	10+
Student					
Teacher/ Admin.					
Other School Employee					
General Public					

5. Destruction, defacing or removal of posted materials, meeting places, memorials, etc.:

Victim	**Frequency**				
	none	1-3	4-6	7-9	10+
Student					
Teacher/Admin.					
Other School Employee					
General Public					

6. Destruction of personal belongings:

Victim	**Frequency**				
	none	1-3	4-6	7-9	10+
Student					
Teacher/Admin.					
Other School Employee					
General Public					

7. Physical violence:

Victim	Frequency				
	none	1-3	4-6	7-9	10+
Student					
Teacher/Admin.					
Other School Employee					
General Public					

8. Indicate which of the following groups have been victimized by hate crime incidents at your school. Please estimate the approximate percentage of total incidents suffered by each group:

Victim Group	% of Total Incidents
African American	
Arab/Middle Eastern	
Asian/Pacific Islander	
Filipino	
Latino	
Native American Indian/Alaska Native	
White	
Cnristian	
Islamic/Muslim	
Jew	
Gay/Lesbian	
Other_____	

9. On a scale of 1-10, please rate what you believe to be the comfort level of the overall school population with each group (1= very uncomfortable, 10 = very comfortable)

Victim Group	School Population Feels
African American	
Arab/Middle Eastern	
Asian/Pacific Islander	
Filipino	
Latino	
Native American Indian/Alaska Native	
White	
Christian	
Islamic/Muslim	
Jew	
Gay/Lesbian	
Other_____	

10. In the cafeteria and the classroom, do group members tend to sit only or primarily with members of their own group? If so, indicate for which groups this is true.

Victim Group	Members Keep to Themselves
African American	
Arab/Middle Eastern	
Asian/Pacific Islander	
Filipino	
Latino	
Native American Indian/Alaska Native	
White	
Christian	
Islamic/Muslim	
Jew	
Gay/Lesbian	
Other_____	

11. During the current school year, have you seen what you believe to be evidence of the presence of "supremacist" groups in your school such as Neo-Nazis or Ku Klux Klan?

Yes _____ No _____

If yes, name groups and what made you notice them.

Group	**Evidence of presence on campus**

Reprinted with permission from *Hate Crime: A Sourcebook for Schools Confronting Bigotry, Harassment, Vandalism and Violence*, Cristina Bodinger-DeUriarte and Anthony R. Sancho (1991). Southwest Center for Educational Equity, Southwest Regional Laboratory, 4665 Lampson Avenue, Los Alamitos, CA 90720.

Addressing Racial Harassment

A self-evaluation and planning guide for school districts

I. POLICIES/AWARENESS/EDUCATION

Formal Policy. Have we taken a formal position that racial harassment is contrary to district policy? Has our position been approved by the appropriate level of authority in the district?

Notes:_____

Is our policy clear, comprehensive, and consistent with legal requirements?

- Addresses racial harassment in district programs and activities.
- Is sufficiently broad to address the range of incidents where the district can be responsible, including harassment perpetrated by staff, agents, students, or others.
- Have we sought external review by persons or agencies knowledgeable of civil rights requirements?

Notes:_____

Do we take steps to ensure our policy is made known to all interested persons (e.g., post notice on bulletin boards, newspapers, district publications, mailings, copies maintained by designated officials, etc.)?

- How is it disseminated to:
  - students _____
  - parents _____
  - staff _____
- Is the notice recurring/ongoing?

Notes:_____

Have we designated a person or persons to coordinate our efforts to promote awareness and racial harmony?

- Does this person have adequate time and support to effectively execute these responsibilities? How do we determine whether appropriate support is provided?
- Is this person encouraged to present information regarding needs to administrators responsible for supporting such activities? How?

Notes:_____

Have we consulted with a diverse cross section of persons to identify needs and generate ideas for educational/awareness activities?

- Staff _____
- Parents _____
- Students _____
- Experts in the field _____
- Elected officials _____
- Business community _____
- Other community interests _____

Notes:_____

What steps should we take to promote cultural awareness, understanding, and mutual respect? Should we consider other (additional) activities (e.g., classroom activities, student advisory groups, extra-curricular cross-cultural appreciation activities such as art, music, student exchanges, guest speakers, field trips, cultural fairs, etc.)?

Notes:_____

Is our plan of training and other multicultural awareness programs effective?

- What is the feedback from staff and students regarding the effectiveness of these activities?
- Do we need to establish a specific interval to reevaluate our success?

Notes:_____

Do we have a crisis intervention plan?

- Have we had training on how to address a crisis?
- What situations call for outside assistance?
- Who has authority to set the plan in motion?

Notes:

II. COMPLAINTS/REMEDIES

Are our internal methods for handling concerns or complaints clear and well known? Have we determined that our methods of notice are effective?

- Do persons with concerns or grievances receive information on how to present them (to whom) and what steps will be followed when they use our process(es)?
- Are staff aware of the grievance process so they are prepared to respond to inquiries?
- Do we provide informal as well as formal avenues?
- How is the information regarding raising concerns or grievances disseminated? Is it published?
- Have we determined whether notice is reaching those who may need to present concerns or grievances?

Notes:

Do our methods of addressing a grievance ensure thoroughness, fairness, and impartiality (i.e., provide due process)?

- Are the staff involved in carrying out the process fully informed of the legal requirements in this area? How?
- Do we provide for an impartial investigation of complaints? How do we ensure this impartiality?
- Do we provide a full opportunity to provide evidence? How?
- Do we communicate our decisions (and the bases for such) clearly in writing? How and to whom?
- Do we reach prompt decisions? Do we have standards for timeliness? Do we adhere to our standards?

Notes:

Do we provide for effective remedies where there has been discrimination?

- Do we have standards that ensure our remedies fully correct the harm or injury?
- Are our remedies effective at preventing a recurrence? How do we evaluate the effectiveness of our remedies?

Notes:

Do we have a person designated to coordinate our complaint procedures? Are they provided training and information on their duties?

- Do we need to establish a specific interval to reevaluate the overall effectiveness of our complaint procedures?

Notes:

III. ONGOING REVIEW

Do we have an ongoing and periodic review of our overall efforts to address racial harassment?

- Is there a person responsible to initiate our periodic review?
- Have we established a specific interval for our review?
- Have we ensured the review will be comprehensive?

Notes:

From the U.S. Department of Education, Office for Civil Rights, Western Division, Seattle Office.

Preventing and Responding to Hate-Motivated Behavior

Preventing Hate-Motivated Behavior

Teachers, principals, counselors, parents, grandparents, and extended family members should model behavior for children which promotes dignity, respect, and appreciation of diversity for people from all backgrounds and cultures.

It is the *school's responsibility* to ensure that established school district standards of behavior are followed. Standards should promote respect for all people and for oneself. School personnel must demonstrate to students that each person is valued as are all cultural differences brought from home to school.

A Suggested Process

Specify the rules of conduct in documents, speeches, and orientation sessions that are held with students and faculty. Include the district and school policies concerning bigotry, all of the activities considered to violate policies and constitute unacceptable behavior, the procedures for reporting a hate crime, and the consequences for those who commit any hate-motivated behavior.

Assess the existing school climate, review incident reports, and identify potential problems. Perform a *Hate Crime School Survey** at the site and use the data to develop strategies for reducing hate-motivated incidents. Analyze the data to improve programs.

Adopt a curriculum or supplement the current curriculum through course content which includes or enhances multicultural components. *Provide staff training* which will help teachers to respond immediately and appropriately to hate-motivated incidents in the classroom, accurately report hate-motivated incidents, and provide needed assistance for the victim and offender.

Provide workshops for teachers, parents, families, and community partners which teach the importance of setting examples and provide the opportunity for participants to model positive behavior toward youths.

Involve community partners, such as government agencies, law enforcement, and other school sites, as resources. These partners are valuable resources for helping develop effective prevention plans.

Support student activity programs that promote appreciation and respect for differences among people. Support after-school, evening, and weekend events which demonstrate how students can harmoniously work together, learn from one another, and resolve conflicts among members of a dissimilar student body. Encourage existing student-focused programs promoting dignity and physical and emotional safety for all students. (refer to Resources).

* See Cristina Bodinger-deUriarte and Anthony R. Sancho. *Hate Crime. A Sourcebook for Schools Confronting Bigotry, Harassment, Vandalism and Violence*. Southwest Regional Laboratory, 4665 Lampson Ave., Los Alamitos, CA 90720.

Responding to Hate-Motivated Behavior

Schools must have a clear set of procedures to follow when responding to hate-motivated incidents. Steps that ensure the safety of the victim, provide for appropriate disciplinary action for the perpetrator, and establish a standardized reporting system are important procedures to have in place at every school site.

Immediately:

1. *Stop the behavior* and address the problem. Discuss the incident with the student(s) involved and interview possible witnesses. Provide immediate and reasonable consequences for the perpetrator (based on school and district disciplinary guidelines).

Later the same day:

2. *Provide immediate staff response* to all reports of hate-motivated incidents. Notify school administrators and law enforcement officers of the incident and request assistance, if necessary. Get assistance for the teacher if he or she is uneasy in dealing with this issue.

3. *Activate all student rumor control networks* on campus so that they can disseminate accurate information across the campus before rumors spread.

4. *Provide victims of hate-motivated behavior or crime with support* and assistance, including referral to victim support agencies, if appropriate.

5. *Inform the victim's and perpetrator's parents* that the school is taking the incident seriously. Ask family members whether they are aware of any indicators of hate-motivated behavior at home and whether their observations may be documented and shared.

6. *Report in writing* all hate-motivated behavior. Reports should include a description of the behavior and name(s) of the student(s) involved. Inform the district office staff of all planned follow-up activities (refer to Appendix C).

7. *Follow the district's media relations plan* so the assigned spokesperson can take command of distributing the information quickly and accurately.

As soon as possible:

8. *Proceed with appropriate disciplinary action* consistent with district policy and the California *Education Code*. Law enforcement officers may proceed with a concurrent investigation based upon California *Penal Code* violations.

9. *Provide appropriate sensitivity training* and diversity education for the perpetrators and their families.

10. *Implement follow-up activities* with the students, staff, and community:

- Have law enforcement officers take photographs of graffiti and have district personnel paint out all graffiti before students arrive at school so that the message is not seen by students.
- Work with students who are in formal and informal leadership roles to plan activities which will restore campus harmony: e.g., campuswide "No Put-Down" campaigns.
- Utilize school or district crisis response teams to support the students.

Reprinted with permission from *Hate-Motivated Behavior in Schools. Response Strategies for Administrators, School Boards, Law Enforcement and Communities*. Alameda County (CA) Office of Education (1997).

- Provide staff with effective strategies on how to respond to taunts and slurs in the classroom: e.g., establish "No Slur Zones" in the classroom or perform sensitivity exercises with students.

USING THE TEACHABLE MOMENT.

Teachers need to be provided the necessary training which enables them to recognize and appropriately respond to hate-motivated incidents that occur in their classrooms. When teachers are aware of such acts and are comfortable responding to them, they can use this teachable moment to talk with students. This discussion helps students to understand the damage and hurt that can be brought about by such behavior.

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Working with Victims and Perpetrators

A student's embarrassment or fear of retribution often prevents the student from reporting the incident. Staff members must strive to maintain an atmosphere of trust, safety, and confidentiality so that students feel comfortable sharing their experiences.

School staff should provide support in the following ways to a student victimized by hate-motivated behavior:

1. Assist the victim in filling out any required school district and law enforcement reports and be sensitive to any cultural and language needs of the student. The staff should also encourage the student to inform his or her parents about the incident.

2. Help the student preserve evidence from the incident, including written materials, drawings, and graffiti. Staff should also help the student identify responsible parties and possible witnesses.

3. Ensure that the student receives appropriate medical treatment or counseling support. Often the student will minimize the injury or harm and refuse such assistance. Staff should still offer the immediate assistance and longer-term support.

4. Offer the student and family assistance in contacting other resources, such as law enforcement, victim-witness assistance programs, local media, and community organizations.

5. Break through feelings of isolation the student might have by encouraging discussions with and support from family, friends, and other students.

6. Assure the student that the school will treat the incident with appropriate seriousness by using classroom and group settings to talk about what makes a school feel safe and secure. Assure the student that the staff will work hard to create a safe environment for all students.

School staff should work in the following ways with a student who has perpetrated a hate-motivated act:

1. Talk with the perpetrator and try to determine his or her level of intent to hurt or harm. Determine whether the student has had any prior contact with other hate groups on campus, in the neighborhood, or through the Internet.

2. Assist the perpetrator in contacting his or her parents and arrange for any necessary meetings with the school or police. When meeting with parents, be alert to any verbal clues regarding hate-motivated feelings.

3. Explain what type of forms will be filled out and how the student's behavior is going to be described and reported. Inform the perpetrator as to what disciplinary action will be taken.

4. Consider, if appropriate, face-to-face discussions with the victim (restorative justice techniques). Be sensitive to public ridicule and embarrassment because that rarely changes a person's behavior for the better.

5. Promote rehabilitation and higher levels of awareness for perpetrators and parents by having them view videos, read stories, and perform meaningful, positive deeds within the community.

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Working with the Media

Schools cannot wait until hate-motivated incidents become a concern before developing a media-response plan. Having clear procedures in place before an occurrence will help avoid ill-prepared confrontations with the media.

Preparing Before an Incident

Confer with district-appointed media spokespersons to develop a clear strategy. Document the plan and keep it accessible. Maintain an accurate list of media addresses so the appointed spokesperson can send a news release quickly to control rumors and calm the community. *Remember to include the ethnic press and radio and cable television stations.*

Designate a capable, accessible individual and a back-up contact at each school site to field media calls. Name these contacts in written school procedure papers in case legal action is taken later.

Know state laws and district policies as they relate to hate-motivated behavior.

Have appropriate staff members attend a media-awareness workshop and in-service training on the district's media guidelines.

Form cooperative working relationships with the press before an incident occurs. Be sensitive to the media's reporting deadlines and balance them against the need to gather accurate information. When prepared ahead of time, the district, not the media, will be able to take charge of the interview.

Prepare a boilerplate statement and news release ahead of time. Take time to construct responses to anticipated questions. Think through answers carefully; get legal advice when possible (refer to Appendix D).

Link with other "zones of influence," such as schools, churches, and YMCAs, to share ideas.

Responding After an Incident

Maintain a professional tone and take the time to thank the media for their concern. Do not become defensive.

Set up a press conference if warranted. This allows the district to answer all questions at one time, ensuring uniform dissemination of information.

Assign a district team to protect the victim and perpetrator from the media. Meet with the families and assist them in dealing with reporters.

Invite the media back to the school at a later date to observe positive campus activities. Examples of these activities are:

- Curriculum instruction and activities that teach students about the importance of accepting and appreciating diversity among people
- Schoolwide presentations or programs that highlight cultural pluralism
- School and community partnership activities that promote the value and importance of all children

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Sample Hate-Motivated Behavior Incident Report

_____ **School District**

1. Incident:

School _____
Location _____
Date _____
Time _____

Form completed by _____

Phone _____
Title _____

2. Perpetrator(s):

			Ethnicity								Perpetrator attend school?
	Male	Female	A	AI/AN	B	F	H	PI	W	Grade	Yes/No
1											
2											
3											
4											

3. Victim(s):

			Ethnicity								Perpetrator attend school?
	Male	Female	A	AI/AN	B	F	H	PI	W	Grade	Yes/No
1											
2											
3											
4											

Ethnic Code Key (taken from CBEDS)

A—Asian
AI/AN—American Indian or Alaskan Native
B—Black, not of Hispanic Origin
F—Filipino
H—Hispanic
PI—Pacific Islander
W—White

4. Type of Bias:

__ Race __ Sexual Orientation __ Religion __ Sex (gender)
__ Disability __ National Origin __ Other:_____

5. Type of Incident:

PERSONAL

__ Body language/gestures
__ Verbal slurs/threats
__ Harassment
__ Extortion/theft
__ Physical assault - no weapon(s) used
__ Physical assault - weapon(s) used

PROPERTY

__ Graffiti
__ Property damage
__ Arson
__ Cross burning
__ Other:_____

(See page 3 for instructions on completing the form.)

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6. Narrative Description of Incident

7. Action Taken

8. Assistance Needed at Site to Prevent Further Incidents

9. Additional Comments

10. Other Agency Reports Filed?

__ Yes __ No Agency/report title/number/name _____

This incident reporting form originated from *Freedom From Fear*, a final report of the California Lieutenant Governor's Commission on the Prevention of Hate Violence, May, 1992. Reprinted with permission from *Hate-Motivated Behavior in Schools, Response Strategies for Administrators, School Boards, Law Enforcement and Communities*, Alameda County (CA) Office of Education (1997).

Instructions for Filling Out the Incident Report Form

Following instructions carefully will ensure uniform reporting for all sites. It is important for each site to record all hate-motivated incidents so that the district may plan appropriate interventions.

The Purpose of Hate-Motivated Behavior Incident Reporting

Hate-motivated behavior is a contemporary issue that schools cannot afford to ignore. The board has resolved to require all hate-motivated incidents to be reported using the *Hate-Motivated Behavior Incident Report*. The district, along with local law enforcement personnel, will use information gathered from these forms to shape a program of interventions aimed at preventing recurrence or escalation of problems in schools and neighborhoods where patterns of hate crimes emerge. We urge your cooperation in using this form.

Filling Out the Form

1. Incident:

School, Location, Date, and Time. This information refers to the incident itself. Be as specific about the location as possible (e.g., SE corner of upper playground, in hallway by classroom X, corner of Tennyson and Ruus).

Form Completed by. Enter the name and title of the person completing the form (you). If possible, include a phone number where you can be *easily* reached.

2. Perpetrator(s): Enter data regarding those who started or were the aggressors of the incident. The "Perpetrator attend school?" box refers to whether the perpetrator was a student at the school or not. If there are more than four perpetrators, mention should be made in the narrative section (item 6).

3. Victim(s): Enter data regarding those who were the victims of the incident. Again, if there are more than four victims, note that in the narrative section (item 6).

4. Type of bias: This check-off section is intended to represent your best judgment about the motivation behind the actions which led to the report. It may be helpful to interview the victims and the perpetrators in order to ascertain the true motivation. "Other" should be used if none of the six categories accurately describes the motivation.

5. Type of incident: The definition should be self-explanatory. Harassment is a pattern of the first two personal incidents repeated over time. "Other" should be used to describe either personal or property damage not covered by the categories.

6. Narrative description: Be as specific as possible in order to give a clear picture of the dynamics and scale of the incident to anyone trying to plan interventions. Attach separate sheet(s) if necessary.

7. Action taken: What steps did you take, or do you plan on taking, in response to the incident? What, if any, school district reports were filed?

8. Assistance needed: What type of district support do you believe might be useful in addressing the hate-crime pattern at your site?

9. Additional comments: Indicate any additional relevant information you feel is important.

10. Other reports: Record any disciplinary action taken under California *Education Code* Section 48900.3 or any work orders for graffiti removal if related to hate-motivated crime.

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Preventing Hate Speech, Behavior and Crime:

A School Site Count-Down Primer

by Hilda Quiroz

This collection of ideas and resources may lead to a response specific to the needs of a school site as it prepares or continues to respond to hate motivated behavior. At best, the list is a compass as it communicates the direction of trends and practices in the field of violence prevention and, at minimum, a *time-saver* as it compiles a collection of springboard resources, issues and ideas.

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10 Websites to Visit

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5 Behavior Theories and Models to Recognize and Understand

4 Goals of an Anti-Bias Curriculum

3 Content Themes to Teach

2 Key Elements of Positive Relations to Build Upon

1 Truth about the Kids We Teach

10 Websites to Visit

- *Teaching Tolerance* Magazine: classroom activities and resources K-12
  www.splcenter.org/ teachingtolerance / tt-l.html
- Not In Our Town/Not In Our Town II: videos, catalyst for discussion, curriculum, model campaign and forums
  www.igc.org/an/ NIOT.html *[not in service]*
- Search Institute: Developmental Assets research / resources
  www.search-institute.org
- Anti-Defamation League: classroom videos, curriculum K-12
  www.adl.org
- Creating Safe Schools: sexual harassment and sexual orientation
  www.youth.org/loco/PERSONProject/Handbook/appendix9.html
- Hate-Motivated Behavior in Schools Manual: download
  www.cde.ca.gov/spbranch/safety/crym.html
- STAR (Students Talk About Race) Note: Bay Area program temporarily down but worth investigating
  www.pfaw.org/star/home.html
- Multicultural Pavilion at the University of Virginia: multicultural education. curry.edschool.virginia.edu/go/multicultural/
- Juvenile Justice Clearinghouse: Healing the Hate: National Bias Crime Prevention Curriculum for Middle Schools (document # 165479)
  www.ncjrs.org
- Resolving Conflict Creatively Program, National Center: *Dynamite Site!* for educators and school sites
  www.benjerry.com/esr/index.html *[not in service]*

9 Promising Violence Prevention Approaches

- Partnerships that include family, peers, community and the media.
- Programs at all grade levels K-12.
- Programs that meet the developmental needs of students.
- Program content that promotes personal and social skills.
- Interactive teaching techniques.
- Ethnic identity/culturally sensitive material matched with the needs of the target population.
- Teacher training and staff development that ensures fidelity to your program.
- Activities that promote a positive school climate.
- Activities that model and foster norms against violence, aggression and bullying.

Note: To date no one has identified the precise elements of effective violence prevention programs. These approaches come from expert assumptions and findings from other prevention fields. There are several program evaluations underway at present that are being funded by the CDC. Modified from the Journal of School Health, December 1997.

8 Questions To Ask About Your School Community

- What evidence of hate incidents or crimes exist in our larger community?
- What is the evidence or potential for hate motivated behavior at our school site?
- Is my staff trained to recognize and productively respond to hate speech and behavior?
- Can my staff accurately report a hate motivated incident?
- Can my staff support both the victims and perpetrators of hate motivated behavior?
- What kinds of classroom programs do we have that teach students the information, skills and attitudes to recognize, respond to or resist hate motivated behavior?
- What kinds of school site activities do we have that model the behavior norms that prevent hate speech and behavior?
- What community partnerships exist or need to be established to prevent and respond to hate motivated behavior?

7 Ideas to Turn Cultural/Historical Celebrations Into Meaningful Anti-Bias Activities

- Begin by viewing your cultural/historical celebrations calendar as a potential anti-bias curriculum.
- Design your calendar of events to genuinely reflect the face of your school community.
- Examine your calendar and identify a core of themes or values that weave through all the events. Communicate these themes year round. Highlight and connect these common themes to your observances and celebration activities.
- Tap your family and larger community to insure that your activities do not present misinformation, stereotypes, or misuse symbols or activities. Strive to build an awareness and understanding of a culture beyond a way of dress, a kind of music or dance or food.
- Identify structured and purpose-driven classroom activities and opportunities for dialogues to accompany the events. Treat the event day like a quality lesson plan with identified objectives, from an opening right through the opportunity for reflection and closure.
- Commit the time, staff and resources needed to orchestrate the program. Student representation is a must. Tap students beyond the traditional student activities council.
- Build the program into a predictable pattern of events each year that opens meaningful dialogues, connects school to real life, people and families, validates differences as gifts and strengths, identifies similarities, and builds respectful and trusting relationships for the best and most trying times ahead.

6 Prevention Skills to Teach Kids

- Communicating to
  - express oneself interpersonally
  - resist pressure
  - negotiate and manage conflict
  - advocate for the respect and well being of self and others
- Decision making
- Critical thinking and social problem solving
- Social perspective taking
- Anger management
- Accessing community resources

5 Behavior Theories and Models to Recognize and Understand

Note. No single education, social, psychological or behavior theory can account for all the complexities of human behavior. Most prevention education and intervention programs exist as an integration of ideas, definitions and proposals. Many *effective* and *powerful* teachers in this area *routinely* and *instinctively* apply similar ideas and approaches based on their own teaching, learning and life experiences.

- Health Belief Model . . .The model requires students to: define a problem behavior or risk, personalize the problem or risk and conclude a realistic degree of personal risk *(perceived susceptibility)*. Students identify consequences of the risk or behavior *(perceived severity)*. Students develop an expectation of benefits from using newly learned skills, information and attitudes (*perceived benefits)*. Students identify strategies to reduce barriers to applying their learning to eliminate or reduce risk *(perceived barriers)*. Students identify triggers, strategies to activate "readiness" to act *(cues to action)*. Students engage in confidence and skill building, they demonstrate desired behaviors *(self-efficacy)*.
- Theory of Planned Behavior . . . This theory presents the idea that the best predictor of a desired behavior is the expression of behavioral intent. It requires students to: 1. Assess their attitude toward a targeted behavior based on their personal values, background and experience. 2. Examine the influential norms of family, friends and the media and assess their desire to comply with these. 3. Develop self-confidence and self-efficacy (attitudes, knowledge, skills) to claim, express behavioral intent and carry out the behavior.
- Stimulus Response Theory . . . This theory posits that a behavior can be shaped by the response to that behavior. A teacher, school and community can reinforce the likelihood that students will engage and promote a targeted behavior by recognizing and rewarding, as well as celebrating progress and achievements based on that behavior.
- Social Cognitive Theory . . .The theory transitions *ideas* to *suggested actions* for prevention and intervention programs.

  -Provide social support.

  -Include credible role models.

  -Provide for self-monitoring.

  -Provide for self-initiated rewards/incentives.

  -Teach key skills.

  -Approach the behavior change in small steps.

  -Model positive outcomes.

  -Teach problem solving and stress management.

  -Build a value for the behavior.

  -Correct misinformation and misperceptions.

  -Promote the desired norm.

  -Consider the student, the behavior and the environment as a collective dynamic.
- Community Empowerment Model . . . The model presents the need for responsive dialogues within a forum of community partnerships. It addresses the need for a common community agenda based on felt needs, shared power and responsibility as well as the awareness of and pooling of needed resources.

Sources: Bill Kane, Ph.D. UNM. Innovative Programs In Education and *Health Behavior and Health Education Theory, Research and Practice* 2nd Edition. Jossey-Bass.

4 Goals of an Anti-Bias Curriculum

- To foster a positive self-identity within the context of group identity
- To facilitate knowledgeable, empathic interactions with people who are different from oneself
- To foster critical thinking about bias
- To help children stand up for themselves and others in the face of bias

Derman-Sparks, Louise and the ABC Task Force. *Anti-Bias Curriculum: Tools for Empowering Young Children*. Washington, D.C. NAYEC, 1989.

3 Content Themes That Build/Promote the Desired Norm

- Communication of school policy . . . negative consequences of violence for perpetrator(s), victim(s), families and friends, bystanders and society at large
- Information about prejudice, sexism, racism and male-female relationships
- Courtesy, compassion, caring and respect for one another

Violence Prevention Research Center, University of Illinois and the National School Safety Center

2 Key Elements of Positive Relationships to Model/Build Upon

- Trust . . . certainty . . . security . . . reliance . . . faith . . . belief
- Respect . . . honor . . . high regard . . . consideration

1 Truth about the Students We Teach

- Students who feel strongly connected to family, community and school are at a lower risk for violence. At minimum these relationships require genuine intention on the part of adults, quality role models, adequate time and the highest priority. It is out of these relationships that *hope is born*. Where there is hope many good things follow . . . even in the face of adversity.

"We Mustn't Just Stand Against Something—We Must Also Stand For Something"

-Hilda Quiroz, E1R Associates

Become Informed
Take responsibility for educating yourself about the issues. Don't take a passive role and wait for others to share their culture or history with you. Seek out information about other people, places, and beliefs. It's easier to develop relationships with individuals from other cultures and races when you show that the learning process is mutual.

Recognize Your Own Hesitations
Confront your own discomfort about interfering in racial tension. Face the limitations your own attitudes may place on your ability to act. Seek information to help educate yourself against your own pre-set attitudes, set priorities for yourself, and be prepared to take action against hate acts.

Accept Conflict as Part of a Healthy Life-style and Learn to Manage it
Conflict and tension are normal, healthy aspects of life. They enable us to grow. Stop viewing conflict as bad, learn how to recognize it, manage it and make it work for you.

Become an Active Listener
If you listen closely, you can hear people, especially young people, tell you about hurt they have had or are having in their lives. When you begin to see situations through their eyes, you will begin to create healing solutions, or at least be able to refer them to someone who can help. Sometimes it's just a matter of listening and showing concern.

Become a Role Model
Practice anti-bias, multicultural values in every aspect of your daily life. Show others that you respect and value the talents and diversity of everyone by projecting true enjoyment of unique cultural observances. Be non-judgmental but understand the issues of human dignity, justice, and safety and make it clear that these are non-negotiable.

Work Collaboratively with Others
Support efforts that combat prejudice and appreciation in all its forms. Social change is long-term, and it is easy to get discouraged, but together we have the strength and vision to make a difference.

Guidelines for Challenging Racism and Other Forms of Oppression. Cross Cultural Consultation, 1998.

TIPS FOR ADDRESSING HATE BEHAVIOR IN SCHOOL
The sample responses below might be helpful when addressing particular situations:

Name Calling:
You seem really upset at something John has done or said. But instead of telling John what it was that you didn't like, you called him a word that is used to hurt people. If you tell him what you don't like, it will help John not to do it again. Name calling hurts and it doesn't solve anything.

Exclusion:
Why did you leave Tony out?

Tony, why do you think you were left out?

What things are important about being a good playmate?

Can Tony change the color of his skin?

Can you change the color of yours?

Do you think that skin color has anything to do with being a fun playmate?

Making Fun of Differences:
We sometimes think others are strange simply because they are new to us. We don't think we look or act strange because we are used to ourselves.

Do you think we could look strange to people that don't know us?

When your family came here from another country do you think they sounded funny to other people?

Do you think others made fun of the way they talked?

How do you think you would sound to other people if you were trying to learn a new language?

Harassing Behavior:

Did Sally do something to make you angry?

What do you want to accomplish by bothering her?

Do you understand that your teasing isn't going to help you or Sally?

Have you ever been teased?

How did you feel?

Can you think of ways that you could tell your friends not to tease or hurt other people's feelings?

How would you feel if you got your friends to stop hurting someone else's feelings?

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Guidelines for Determining Hate Motivation

Law enforcement agencies, reporting groups, government agencies, and other victim assistance organizations use a number of guidelines to determine whether hate motive is involved in an incident or attack. The following are some of the more common factors to consider. No one factor is conclusive in itself.

1. Were the offender and victim of different racial, religious, ethnic/national origin, or sexual orientation groups?

2. Did the victim appear to be a member of a particular racial, religious, ethnic/national origin or sexual orientation group, even though he or she in fact is not part of that group?

3. Were there bias-related comments, written statements, or gestures made by the offender?

4. Were bias-related drawings, markings, symbols, or graffiti left at the incident scene?

5. Were certain objects, items, or things that represent bias used or left behind at the incident scene, e.g., hoods, Confederate flags, burning crosses, swastikas?

6. Has the offender been previously involved in similar hate incidents, or is the offender a member of a hate group?

7. Does the perpetrator have an understanding of the incident's impact on the victim, the victim's family, or the community?

8. Did the victim's family recently move into the area? Is the victim's family acquainted with their neighbors and local community groups?

9. Was the victim a member of a racial, religious, ethnic/national origin, or sexual orientation group that is overwhelmingly smaller than other groups where the victim lives or the incident took place? This factor may lose some significance with the passage of time, i.e., it is the most significant when the victim first moves into the neighborhood, becoming less significant as time passes without incident.

10. Was the victim visiting a neighborhood where previous hate crimes have been committed against other members of his/her racial, religious, ethnic/national origin, or sexual orientation group?

11. Was the victim engaged in past or current activities promoting his/her racial, religious, ethnic/national origin, or sexual orientation group?

12. Although the victim may not be a member of the targeted racial, religious, ethnic/national origin, or sexual orientation group, was he or she a member of an advocacy group supporting the precepts of the victim's group?

13. Did the incident coincide with a holiday relating to, or a day of particular significance to, a racial, religious, ethnic/national origin, or sexual orientation group?

14. Have there been other incidents occurring in the same locality, at or about the same time, and have the victims all been of the same racial, religious, ethnic/national origin, gender or sexual orientation group?

15. Has the victim or victim's community been subjected to repeated attacks of a similar nature?

16. Does a substantial portion of the community where the incident occurred perceive that the incident was motivated by bias?

17. What was the manner and means of attack? For example, does the color of paint, the use of particular words or the spelling of words, or the use of symbols or signs suggest a possible hate motive?

18. Does the incident indicate possible involvement by an organized group? For example:

A. Has a specific hate group claimed responsibility for the crime?

B. Is there printed literature involved?

C. Does the name of the group in the literature suggest hate motivation?

D. Does the name of the group suggest a "copy-cat" syndrome?

E. Is there documented or suspected organized group activity in the area?

F. Was this group actually involved, or was this a fear or scare tactic?

19. Are there historical animosities existing between the victim's and the offender's group?

20. Is there an ongoing neighborhood problem that may have initiated or contributed to the incident? Could the incident be retribution for some conflict with a group in the community, a segment of the population, etc.?

21. Has there been prior or recent news coverage of incidents of a similar nature?

From the U.S. Department of Justice, Federal Bureau of Investigation, *Hate Crime Data Collection Guidelines*, 1992, pages 2-3. *Uniform Definitions and Guidelines for Identification of Crimes Motivated, All or in Part, by Race, Ethnicity, Religion and Sexual Orientation*, S.B. 2080, from *Final Report*, Attorney General's Commission on Racial, Ethnic, Religious and Minority Violence, 1986, Appendix E.

Graffiti Removal Protocol of the University of Massachusetts – Amherst

Physical Plant Division Policies and Procedures Manual January 3, 1996

From: Acting Assistant Director for Customer Service & Work Management
Subject: Policy on Graffiti Removal
Purpose: To establish a protocol on graffiti removal
Discussion: Massachusetts has enacted a Civil Rights law which states:

Any person who willfully, intentionally and without right, or wantonly and without cause, destroys, defaces, mars, or injures a church, synagogue, or other building, structure, or place used for a school, educational facility or community center . . . shall be punished by a fine of not more than two thousand dollars or . . . by imprisonment in house of correction for not more than two and one-half years.

Physical Plant has historically removed or covered any offensive graffiti as soon as possible. As a result of the Civil Rights law stated above, graffiti may constitute a violation of law. It is therefore essential that graffiti of an offensive nature be investigated by Public Safety before we remove it. This policy is meant to clarify those incidents requiring reporting to the Public Safety Department.

Action: Upon notification of the existence of graffiti on the campus of the University or other University owned property, consideration shall be given to notifying the Public Safety Department. If the graffiti consists of any one of the following categories, the Public Safety Department shall be notified and removal postponed until their investigation is complete:

- repetitive instances or persistent patterns
- a high degree of visibility
- victim is identified
- perpetrator is identified
- inciting to violence
- targeted to particular group(s) or includes threats or intimidation

Examples: swastikas, epithets in public places or on personal property, hate graffiti clearly aimed at individuals by naming them, being placed on their belongings, etc.

The only graffiti that can be immediately removed is that which does not suggest any of the above. Examples: small graffiti in bathrooms and other public places which is general and vague.

It is imperative to report graffiti to the appropriate person(s). Graffiti that involves Public Safety shall be removed immediately after the investigation is complete, maintaining records of all materials and time required to do so.

Conflict Intervention Teams

A Response to School Crises

SUMMARY

In school year 1992-1993, two urban high schools in the greater Boston area were closed down for several days in the aftermath of racial riots among their students. In each instance, Massachusetts Attorney General Scott Harshbarger's office organized and oversaw a team of experienced mediators who entered the school and worked quietly behind the scenes to resolve the conflicts that had precipitated the crisis, thus helping the schools to reopen safely. The success of these mediation interventions led to the formal creation of what is now known as the Conflict Intervention Team (CIT). CIT has provided emergency mediation services to 23 Massachusetts schools that were in or on the verge of a crisis.

DESCRIPTION

The Conflict Intervention Team, established in 1992, is a program sponsored by the Massachusetts Office of the Attorney General (OAG) in collaboration with the Massachusetts Association of Mediation Programs and Practitioners (MAMPP) and the Massachusetts Department of Education (DOE). The mission of CIT is to provide emergency mediation services to schools to restore a sense of calm and safety in the aftermath of, or in anticipation of, large-scale conflict resulting from racial tensions.

When a school perceives the threat of violence, it is encouraged to call the Attorney General's office for assistance. If the situation is determined to be serious, the office will arrange a meeting at the school to assess the situation, recommend a course of action, and begin to implement the strategic plan for mediation intervention. Often the plan involves several days of intense interviews with students, small and large group mediation sessions and facilitated discussions among all involved in the conflict. To carry out the plan, the CIT assembles a team of experienced community mediators. Often, after an intervention, the CIT will write a detailed report for the school which outlines, from the perspective of the students and staff who talked with the CIT, the causes of the conflicts and recommendations for changes that would prevent further outbreaks.

GOALS

There are three main goals of CIT:

1. To use mediation as a constructive and respectful forum for discussing and resolving racial disputes and other disputes involving intolerance of differences.
2. To educate school systems and law enforcement officials that CIT is available to help restore calm and a safe environment in the aftermath of severe outbreaks of violence.
3. To train experienced adult and student mediators, from every region of Massachusetts, to respond to school emergencies.

PROTOCOLS FOR CIT

The Attorney General's office and its partners at MAMPP and the DOE have developed a set of protocols which guide the operation of CIT. The protocols outline the roles and responsibilities of each agency and the roles and responsibilities of on-site CIT supervisors and mediators. The protocols also provide an overview of the objectives for each stage of an intervention: assessment; planning; implementation; and follow-up.

Fifteen hours of advanced mediation training is required of all mediators who participate on CIT; an additional seven hours of training is required for mediators who supervise and lead the actual interventions.

BENEFITS AND RESULTS

Since its inception, the Conflict Intervention Team has responded to requests for assistance from 23 schools. In each instance, the CIT, under the auspices of the Attorney General's office, has succeeded in resolving the conflicts that had precipitated the crisis and has helped to restore a sense of calm and safety to the school. A total of 108 mediations has been conducted during these interventions, with 106 resulting in agreement (see attached statistics). Whenever possible, the CIT follows up the short-term intervention by assisting schools with the development of peer mediation programs to deal with conflict over the long term. (The Attorney General's office has offered funds for a SCORE (Student Conflict Resolution Experts) program on five occasions.)

The use of mediation has proven a very effective method for intervening in large-scale conflict resulting from racial tension. When students are very angry and frustrated, they need a safe and constructive forum for airing their feelings and concerns. Without such an outlet, further conflict and, perhaps, violence are almost guaranteed. Once the students have had the opportunity to air their feelings and to feel that their issues have been heard, they are able to talk with one another and to work with mediators to recommend ways to improve the general climate of their school.

REPLICABILITY

The model for CIT is based on a unique and effective partnership among the OAG, MAMPP and DOE. Each agency has a role to play in making CIT work: in providing oversight, in educating people about its availability, in providing experienced mediators to make up the teams.

In 1994, Attorney General Harshbarger's office received the Ford Foundation's Innovations in State and Local Government Award for its SCORE and CIT programs. With the money received as a result of this award, staff from the OAG and MAMPP worked with the North Carolina Attorney General's office and the North Carolina state association of mediators to set up a Conflict Intervention Team in that state. A team of 30 mediators in North Carolina was trained to become members of their CIT, and representatives from the North Carolina AG's office and department of education attended the training.

The Massachusetts Conflict Intervention Team recently received a 3-year grant from the Hewlett Foundation. One of the mandates of the grant award is to replicate CIT in three to six additional states. The OAG, MAMPP and DOE have all the operational and training materials and trainers to assist other states that are interested in creating an emergency response team of mediators like the Massachusetts Conflict Intervention Team.

Conflict Intervention Teams—Intervention Highlights

URBAN HIGH SCHOOL

In May 1993, two staff from the Attorney General's office organized and supervised a team of 22 DOE, MAMPP and community mediators to offer mediation services to the students and staff at this high school in the wake of a melee that occurred at the school between approximately 100 white and black students. The mediators acted as a sounding board for students who were upset by the events and also mediated student-student conflicts as they were identified. Eighty-five students had one-on-one private discussions with mediators during the 10 days that the mediators were present in the school. Ten formal mediation sessions were conducted, and all of them resulted in agreements. General areas of concern raised by the students were passed on to the administration for further action or consideration. At the end of this intense intervention, it was the consensus of those involved that, while the most immediate sources of tension had been alleviated, the situation remained volatile. It was felt that the safest course of action would be to leave some mediation capacity at the school for the remainder of the school year.

SUBURBAN HIGH SCHOOL

In October 1994, CIT was called in by the principal in response to recent racial tensions between African-American and white students resulting from a series of incidents that took place at a party on a Friday night. Staff from the OAG and MAMPP coordinated the four-day intervention. Twenty-four community mediators, including four students from the SCORE program at Boston English High School, volunteered their time to work with students at this suburban high school. A total of 44 intake interviews took place in an effort to sort out what happened and to determine who needed to come to mediation. As a result of these intakes, 13 mediations took place involving 38 students, some of whom participated in more than one mediation. A large group mediation involving the 10 key students resulted in joint recommendations to the administration. A written report with recommendations was sent to school officials.

URBAN MIDDLE SCHOOL

In February 1996, a CIT was called into this school in response to a conflict among 21 eighth-grade boys divided along racial and friendship lines. Each group complained of name-calling, bullying and disrespect by the other group. One student and five adult mediators participated in the Intervention. A total of 21 individual intakes was conducted resulting in six 2-party mediations. The final mediation, involving all 21 boys, lasted four hours and resulted in an agreement to treat each other with respect and to coexist peacefully.

SUBURBAN MIDDLE SCHOOL

This five-day middle school conflict intervention was coordinated by MAMPP and OAG staff in April 1995. The CIT was called into this school by the principal after a series of incidents between white and black students escalated into a large group fight. Several students were suspended from school, and a few received minor injuries. The CIT team comprised two coordinators and 15 mediators, including six student mediators (four student mediators from Brighton High School and two student mediators from Boston English High School). Over the course of the five-day intervention, two parent intakes and 37 student intakes were conducted. A total of 12 mediations was held (nine two-party mediations, two multi-party mediations and one large group mediation), with all but one reaching agreement.

RURAL JUNIOR/SENIOR HIGH SCHOOL

In April 1995, the Conflict Intervention Team was called into this school following a three-week period of escalating harassment between a group of white girls and a group of Puerto Rican girls. The school is situated in a small rural town in Massachusetts. Out of 400 students in grades 7-12, there are only 10 students of color. This five-day intervention was coordinated by the OAG with the assistance of one community mediator. Eight intakes were done, resulting in four 2-party mediations and one large group mediation, all of which were successful. The conflict was racially based and reflected a lack of tolerance for cultural differences.

URBAN HIGH SCHOOL

In October 1996, the OAG received a call from the Superintendent of Schools requesting assistance at this school in response to reports of serious racial tensions between white and Hispanic students. A small group of students had brought their concerns to the Superintendent, stating that there were strong rumors that weapons would be brought into the school the next day to deal with a small group of white students who were allegedly making racial slurs. The Superintendent arranged for extra police presence and called for CIT assistance. The four-day Intervention was coordinated by two staff from the OAG with assistance from 10 community mediators. During the Intervention, intake interviews were conducted with 62 students. With information from the intakes, six two-party and one five-party mediation were conducted, all resulting in agreement. On the last day of the Intervention, 18 white, Hispanic and black students, with the assistance of mediators, discussed openly their frustrations with one another. Eventually they decided to work together to prepare a set of recommendations to present to the Superintendent. These recommendations were included in the CIT's written report. Since the Intervention, the Superintendent has provided funding for a peer mediation program and diversity training.

From a report on the Conflict Intervention Team program by the Massachusetts Office of the Attorney General.

Erasing Hate

A Guide to Your Civil Rights in School: Your Right to Be Free from Discrimination, Harassment and Hate-Motivated Violence

Scott Harshbarger
Attorney General
Commonwealth of Massachusetts

From the Desk of
Attorney General Scott Harshbarger

Every student has the right to attend school safely, regardless of their race, color, religion, national origin, ethnic background, gender, sexual orientation or disability. Hate-motivated violence, harassment and discrimination may interfere with a student's academic performance and physical and emotional well-being. It may also affect a student's ability to enjoy his or her school education.

Teachers and school administrators can play an enormously important role in ensuring that your civil rights are protected so that you and other students can take full advantage of the numerous educational opportunities offered by the Commonwealth's public schools. If your civil rights are being violated, however, this guide can serve as a source of information about the laws protecting you and the resources available for reporting hate-motivated harassment, discrimination or violence.

For the sake of all students, as well as the larger community, each of us must make sure that every student has a safe physical and emotional environment in which to learn.

HATE CRIMES

You have the right to attend school without being the victim of physical violence, threats of harm, intimidation or damage to your personal property. A hate crime occurs when you or a fellow student is targeted for physical assault, threat of bodily harm or intimidation, at least in part because you are a member of a different race, color, religion, ethnic background, national origin, gender or sexual orientation from the offender or because you have a disability.

Certain types of language or conduct may indicate the potential that a hate crime has occurred. Some indicators that a crime was hate-motivated include:

- Use of racial, ethnic, religious, sexual or anti-gay slurs;
- Use of symbols of hate, such as a swastika or a burning cross;
- Similar behavior by the wrongdoer towards other students from the same racial, ethnic or religious group or against students of the same sexual orientation or gender; and
- Where the incident occurs while the victim was participating in an activity promoting a racial, religious, ethnic/national origin, disability, gender or sexual orientation group, such as a meeting of the National Association for the Advancement of Colored People (NAACP), membership in a students' gay rights alliance or in a disability rights demonstration.

Hate crimes most frequently occur in the following ways:

- A physical attack or a threat of bodily harm, on the basis of a student's race, color, religion, national origin, ethnic background, gender, sexual orientation or disability;
- Intimidating or threatening language based on a student's race, color, religion, national origin, ethnic background, gender, sexual orientation or disability; or
- Damage to a student's personal property or belongings because of the student's race, color, religion, national origin, ethnic background, gender, sexual orientation or disability.

HARASSMENT

Harassment in school occurs when a student or adult's behavior or inappropriate language creates a hostile, offensive or intimidating school environment. A single incident, depending on its severity, may constitute illegal harassment.

A hostile, offensive or intimidating school environment may be created by behaviors such as the following:

- Degrading, demeaning, insulting or abusive verbal statements or writings of a sexual or racial nature or related to a student's race, color, religion, national origin, ethnic background, gender, sexual orientation or disability;
- Graffiti, slogans or other visual displays (such as swastikas and burning crosses) which contain racial, ethnic, religious

slurs or insults based on the student's gender, sexual orientation or disability;

• Treatment of a student in a more or less favorable way because the student submitted to or rejected sexual advances or requests for a social relationship; and

• Unwelcome sexual advances, including same-gender harassment.

DISCRIMINATION

Every student is entitled to equal educational opportunities. A student may not be subjected to discipline or more severe punishment for wrongdoing nor denied the same rights as other students because of his or her race, color, religion, national origin, ethnic background, gender, sexual orientation or disability, including in:

- Course Registration
- Guidance Counseling and Course Instruction
- Extra-Curricular Activities and Athletic Programs

Students with disabilities are protected under federal and state law from discrimination. Such students are entitled to: (1) have their programs and activities in a physically accessible location; (2) be ensured "effective communication," including, where necessary, the provision of additional aids and services; and (3) reasonable modification of a school's policies and practices, where necessary, to receive an equal opportunity education. Students with special educational needs may be entitled to an individualized educational program.

WHAT YOU SHOULD DO IF YOU ARE A VICTIM OF A HATE CRIME, HARASSMENT OR DISCRIMINATION

If you have been physically attacked, threatened with physical harm or discriminated against while in school or while participating in a school-related activity, because of your race, color, religion, national origin, ethnic background, gender, sexual orientation or disability, or if you witness these acts against another student:

• Notify your local police in an emergency or if your or another **student's personal safety is in danger.**

• In all circumstances where you are the subject of any serious incident of harassment or any incident involving intimidation, threat of violence or physical attack, you should **notify a school official**.

• For non-serious forms of harassment or discrimination only, you may want to try to speak with the person you feel has harassed you or discriminated against you -- for example, the teacher, coach, other student or administrator -- to request that the offensive conduct stop. Only do this if you feel safe and are comfortable doing so. If you do not feel safe or comfortable doing this alone, ask someone you trust -- such as a parent, a good friend, a family member, the school nurse, a teacher or your guidance counselor -- to accompany you.

• Talk about the situation with your parents, your guardian or another adult whom you trust.

• If there is still a problem, make an appointment with your school principal to explain why you believe your rights have been violated.

• If your principal feels that your rights are not being violated, or if you are unable to meet with him or her, talk with your school superintendent.

• If you still feel that your concerns are not being appropriately addressed, you may file a formal complaint with your school superintendent and the school committee. Your school committee must respond to you in writing within 30 days of your filing a complaint.

• You may also request an investigation of your complaint by contacting your school district's Office of Equity or the person designated to coordinate or handle harassment and discrimination complaints in your school district.

WHERE ELSE CAN YOU TURN FOR HELP

Your school should take appropriate action to protect you from physical harm and to stop hate-motivated harassment or intimidation and prevent it from happening again. If it does not, you should report the incident to one or more of the agencies listed below.

• **Massachusetts Department of Education (DOE)**
350 Main Street
Malden, MA 02148
(617) 388-3300
The state DOE's Problem Resolution System allows you, your parents and others to file a complaint if you believe you have been harassed or discriminated against.

• **Massachusetts Office of the Attorney General, Civil Rights Division**
One Ashburton Place
Boston, MA 02108
(617) 727-2200
The Attorney General's Civil Rights Division reviews complaints of harassment, intimidation and discrimination in schools and determines appropriate legal action, including obtaining a restraining order.

• **United States Department of Education, Office for Civil Rights**
John W. McCormack Building
Post Office and Court House, Room 222
Boston, MA 02109
(617) 223-9662
The Office for Civil Rights receives and investigates complaints of discrimination and harassment.

- **Massachusetts Commission Against Discrimination (MCAD)**
  One Ashburton Place
  Boston, MA 02108
  (617) 727-3990 or (413) 739-2145

The MCAD investigates complaints about discrimination in any public school program or course of study. Filing must occur within 6 months of the alleged unfair educational practice or harassment incident.

- **Massachusetts Department of Social Services (DSS)**
  1-800-KIDS-508: State-wide Child Abuse/Neglect Reporting Line; 800-792-5200: Child at Risk Hotline/evenings, nights and weekends

DSS investigates reports involving a student under 18 years old who suffers physical or emotional injury from abuse (including sexual abuse) or severe neglect (including malnutrition).

- **United States Department of Justice**
  Community Relations Service (CRS)
  99 Summer Street, Suite 1820
  Boston, MA 02110
  (617) 424-5715

CRS is a specialized federal conciliation service that assists school districts to manage and prevent school racial and ethnic conflicts and disruptions.

OTHER RESOURCES

- **American Civil Liberties Union (ACLU) of Massachusetts**
  (617) 482-3170

The ACLU provides free legal advice and advocacy to students and educates students on issues of discrimination, harassment, civil rights and civil liberties.

- **Anti-Defamation League (ADL)**
  (617) 457-8800

The ADL provides advocacy, support and legal referral services to victims of hate crimes, harassment and discrimination. The ADL's "World of Difference" Program works with schools to fight anti-Semitism, prejudice, bigotry and racism.

- **Asian American Resource Workshop: SafetyNet Hate Violence Prevention Project**
  (617) 542-4800

SafetyNet assists Asian Americans in reporting hate crimes and obtaining access to police, prosecutors and to the court system and provides free and confidential support and referral services. Interpretive services are available.

- **Boston Alliance of Gay & Lesbian Youth (BAGLY)**
  1-800-42-BAGLY

BAGLY is a youth-run, adult-advised social support group to discuss issues of concern to gay, lesbian, bisexual and transgender (GLBT) youth. BAGLY also offers a peer counseling program and referrals to professional services.

- **Boston Asian: Youth Essential Services (YES)**
  (617) 482-4243

Boston Asian YES provides violence prevention, counseling, crisis intervention, gang prevention and substance abuse services for Asian youth in the Greater Boston area.

- **Boston Gay and Lesbian Adolescent Social Services (GLASS)**
  (617) 266-3349

Boston GLASS provides social services, peer support, educational opportunities and health promotion activities for GLBT and questioning young adults ages 25 and under.

- **Childhelp USA National Child Abuse Hotline**
  1-800-4-A-CHILD

The Child Abuse Hotline provides crisis counseling and referral to any caller in an abuse-related situation.

- **Children's Law Center of Massachusetts**
  (781) 581-1977

The Children's Law Center represents students and provides advocacy and training on issues affecting the civil and legal rights of students and their education.

- **Coalition for Asian Pacific American Youth (CAPAY)**
  (617) 287-5689

CAPAY is a youth-run organization that focuses on improving race relations, providing peer support and developing leadership skills for Asian Pacific-American youth.

- **Domestic Violence Ended (DOVE) Youth Hotline**
  (617) 773-HURT or (617) 471-1235

DOVE's Youth Hotline provides a safe, confidential and anonymous place for young adults to talk about domestic violence issues and receive support and referral services.

- **Fenway Community Health Center**
  (617) 267-2535 (Gay and Lesbian Peer Listening Line)
  (617) 267-0900, ext. 308 (Violence Recovery Program)

The Peer Listening Line is staffed by volunteers who provide support to callers with questions regarding their sexual orientation and access to community services. The Violence Recovery Program provides support and referral services to victims of hate crimes and harassment.

- **Gang Peace**
  (617) 442-1919

Gang Peace provides peer-based education and training to youth ages 9 through 25, with an emphasis on rehabilitating gang members and youth at risk, providing programs in violence prevention and intervention, crisis management, mediation and HIV education.

- **Gay & Lesbian Advocates & Defenders (GLAD)**
  1-800-455-GLAD or (617) 426-1350

GLAD provides legal information, referrals and may provide direct legal representation to students and their families to assist students who have been harassed or discriminated against on the basis of sexual orientation and/or HIV status.

- **Governor's Commission on Gay and Lesbian Youth**
  (617) 727-7200, ext. 312

The Commission provides information on their reports, how to start a Gay/Straight Alliance (GSA) and how to find out about existing GSAs and other GLBT support services.

- **Governor's Task Force on Hate Crimes**
  (617) 727-6300
  The Task Force provides assistance and referrals for civil rights issues in schools.

- **La Alianza Hispana - Youth Outreach Program**
  (617) 427-7175
  La Alianza Hispana provides programs and services to the Latino community of Greater Boston, including intervention and referral services to victims of violence and harassment.

- **Lawyers' Committee for Civil Rights Project to Combat Racial Hate**
  (617) 482-1145
  The Lawyers' Committee provides free legal services to children and their families who have been harassed or discriminated against on the basis of race or national origin.

- **Massachusetts Advocacy Center**
  (617) 357-8431
  The Advocacy Center provides legal representation to income-eligible youth with special needs or disabilities and who face suspension or expulsion from school due to disciplinary concerns.

- **Massachusetts Office on Disability (MOD)**
  1-800-322-2020 or (617) 727-7440 (Voice and TDD)
  MOD sponsors recreational and educational programs for youth with disabilities to share concerns about day-to-day issues and coping strategies, independence and self-care.

- **National Association for the Advancement of Colored People (NAACP)**
  Boston (617) 265-7900 New Bedford (508) 991-4416
  Springfield (413) 734-2765 Framingham (508)879-7612
  Lawrence (978) 975-5177 Cambridge (617) 661-9223
  The NAACP provides counseling and legal referral services to African-American youth and empowers youth to resolve problems relating to violence, harassment and discrimination.

- **National Coalition of Advocates for Students (NCAS)**
  (617) 357-8507
  NCAS seeks equal access to quality public education for children of vulnerable groups, including children of color, children recently immigrated to the United States and children with disabilities.

- **National Conference for Community and Justice**
  (617) 227-9155
  The National Conference trains youth from diverse racial, ethnic and religious groups to develop leadership skills to address prejudice and intolerance and develop strategies for inclusion.

- **Samariteens**
  1-800-252-TEEN
  Samariteens provides a free and confidential service staffed by teenage volunteers dedicated to assisting teenagers in need and also provides suicide prevention and intervention strategies.

- **Sociedad Latina**
  (617) 442-4299
  Sociedad Latina offers treatment and counseling services to Latino youth and programs designed to prevent HIV/AIDS transmission, substance abuse, teen pregnancy and domestic violence.

- **Urban League**
  Eastern Massachusetts Office - (617) 442-4519
  Springfield Office - (413) 739-7211
  The Urban League provides services and advocacy programs relating to education for people of color, with a focus on poor and low income urban areas.

Appendix C: Other Reference Materials

- Letter from Richard W. Riley, U.S. Secretary of Education, August 31, 1998, regarding *Gebser v. Lago Vista*
- State Hate Crimes Statutory Provisions

THE SECRETARY OF EDUCATION
WASHINGTON, D.C. 20202

August 31, 1998

Dear Superintendent of Schools:

An important shared goal of educators throughout our country is to ensure that students have a safe and secure environment that is conducive to learning and that affords students equal educational opportunities regardless of their sex. School districts have a critical responsibility for preventing and eliminating sexual harassment discrimination. Sexual harassment of a student, if not appropriately addressed, can have serious, detrimental consequences for the student that impedes the student's education, and constitutes a breach of trust between the school and the student and family.

A recent Supreme Court decision took notice of the "extraordinary harm" that a student suffers when subjected to sexual harassment and abuse by a teacher. The Court emphasized that such conduct by a teacher "undermines the basic purposes of the educational system." Gebser v. Lago Vista Independent School District (June 22, 1998). The Gebser decision limited the availability of damages to a student in a private Title IX lawsuit against a school district. It did not, however, alter the fundamental obligations of schools and their employees to take prompt action to address instances of sexual harassment. This letter summarizes existing obligations and the effect of the Supreme Court decision.

Title IX Prohibits Sexual Harassment Discrimination

The Department of Education's Office for Civil Rights (OCR), which has the responsibility for enforcing Title IX, recently provided educational institutions with a detailed discussion of their responsibilities to prevent and, when it occurs, remedy sexual harassment of students. A copy of the guidance is available on the Department's web site at http://www.ed. gov/offices/OCR/sexhar00.html.

Title IX prohibits sex-based discrimination in education programs and activities operated by schools that receive federal financial assistance. Therefore, school districts are responsible under Title IX to provide students with a nondiscriminatory educational environment. As described in the guidance, sexual harassment of a student may violate this obligation. When a responsible school employee, such as a principal or teacher, learns of possible sexual harassment discrimination by others, Title IX requires the school to immediately investigate, to take appropriate steps to end the harassment, to eliminate the effects of the harassment, and to prevent the harassment from recurring.

The Department's Title IX regulation also requires schools to have well-publicized policies against discrimination based on sex, including sexual harassment discrimination; to have effective and well-publicized procedures for students and their families to raise and resolve these issues; and to take prompt and effective action to equitably resolve sexual harassment discrimination complaints. 34 CFR Part 106.8. In addition, each school district is required to designate at least one employee to coordinate and carry out its Title IX responsibilities. Id. I encourage you, at the outset of the new school year, to publicize and reaffirm these policies and procedures to returning and new members of the school community, including teachers, counselors, administrators, parents, and students.

The Gebser Decision Addresses Private Damages Claims

The Court's recent decision in Gebser was limited to private Title IX lawsuits for money damages. The Court in Gebser ruled that a private plaintiff in a court action can obtain money damages against a school district under Title IX if a school official who has the authority to take corrective action has actual notice of sexual harassment and is deliberately indifferent to it. The Gebser decision expressly distinguished the limits on private recovery of money damages from the Department of Education's enforcement of Title IX. Thus, the obligations of schools that receive federal funds to address instances of sexual harassment have not changed as a result of the Supreme Court decision. School districts must continue to take reasonable steps to prevent and eliminate sexual harassment discrimination. In addition, pursuant to its published guidance, OCR will continue to enforce Title IX in this area, including by investigating complaints alleging sexual harassment discrimination.

OCR Offers Technical Assistance

Sexual harassment discrimination can have serious, detrimental consequences for students. Thus, school districts need to take the problem of sexual harassment very seriously. In addition to having well-publicized policies and procedures in place, schools should be taking preventative steps to identify problems — such as training staff to recognize and report potential harassment — and to follow up on any information indicating potential discrimination. OCR welcomes the opportunity to provide individual schools upon request with technical assistance and practical guidance to develop preventative programs.

The Department is committed to continuing our leadership role in ensuring equal educational opportunities for all students. The Department will continue to work with schools, parents and other interested parties to ensure that schools have effective policies and procedures in place to prevent sexual harassment. I have attached a contact list for OCR's enforcement offices for your convenience.

Thank you for your interest in this critical issue.

Yours sincerely,

Richard W. Riley

[Enclosure omitted]

State Hate Crimes Statutory Provisions

(ALABAMA through MISSISSIPPI)

	AL	AK	AZ	AR	CA	CO	CT	DC	DE	FL	GA	HI	ID	IL	IN	IA	KS	KY	LA	ME	MD	MA	MI	MN	MS
Bias-Motivated Violence and Intimidation	•	•	•		•	•	•	•	•	•			•	•		•			•	•	•	•	•	•	•
Civil Action				•	•	•	•	•		•			•	•		•			•			•	•		
Criminal Penalty	•	•	•		•	•	•	•	•	•			•	•		•			•	•	•	•	•	•	•
Race, Religion[1], Ethnicity	•	•	•		•	•	•	•	•	•			•	•		•			•	•	•	•	•	•	•
Sexual Orientation			•		•		•	•	•	•				•		•			•	•		•		•	
Gender		•	•		•			•						•		•			•	•			•	•	•
Other[2]	•	•	•		•			•	•					•		•			•	•		•		•	
Institutional Vandalism	•		•	•	•	•	•	•	•	•	•	•		•	•		•	•	•	•	•	•		•	•
Data Collection[3]			•		•		•	•		•			•	•		•		•	•	•	•	•		•	
Training for Law Enforcement Personnel[4]			•		•									•		•		•	•			•		•	

1. The following states also have statutes criminalizing interference with religious worship: CA, DC, FL, ID, MD, MA, MI, MN, MS, MO, NV, NM, NY, NC, OK, RI, SC, SD, TN, VA, WV.

2. "Other" includes mental and physical disability or handicap (AL, AK, AZ, CA, DC, DE, IL, IA, LA, ME, MA, MN, NE, NV, NH, NJ, NY, OK, RI, VT, WA, WI), political affiliation (DC, IA, LA, WV) and age (DC, IA, LA, VT).

3. States with data collection statutes which include sexual orientation are AZ, CA, CT, DC, FL, IL, IA, MD, MN, NV, OR and WA; those which include gender are AZ, DC, IL, IA, MN, WA.

4. Some other states have regulations mandating such training.

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State Hate Crimes Statutory Provisions *(continued)*

((MISSOURI through WYOMING)

	MO	MT	NE	NV	NH	NJ	NM	NY	NC	ND	OH	OK	OR	PA	RI	SC	SD	TN	TX	UT	VT	VA	WA	WV	WI	WY
Bias-Motivated Violence and Intimidation	•	•	•	•	•	•		•	•	•	•	•	•	•	•		•	•	•	•	•	•	•	•	•	
Civil Action	•		•	•		•					•	•	•	•	•		•	•			•	•	•		•	
Criminal Penalty	•	•	•	•	•	•		•	•	•	•	•	•	•	•		•	•	•	•	•	•	•	•	•	
Race, Religion[1], Ethnicity	•	•	•	•	•	•		•	•	•	•	•	•	•	•		•	•			•	•	•	•	•	
Sexual Orientation	•		•	•	•	•							•		•						•		•		•	
Gender	•		•		•	•		•		•					•						•		•	•		
Other[2]	•		•	•	•	•		•				•			•						•		•	•	•	
Institutional Vandalism	•	•		•		•	•		•		•	•	•	•	•	•		•	•			•	•		•	
Data Collection[3]			•	•		•						•	•	•	•				•			•	•			
Training for Law Enforcement Personnel[4]													•		•								•			

1. The following states also have statutes criminalizing interference with religious worship: CA, DC, FL, ID, MD, MA, MI, MN, MS, MO, NV, NM, NY, NC, OK, RI, SC, SD, TN, VA, WV.
2. "Other" includes mental and physical disability or handicap (AL, AK, AZ, CA, DC, DE, IL, IA, LA, ME, MA, MN, MO, NE, NV, NH, NJ, NY, OK, RI, VT, WA, WI), political affiliation (DC, IA, LA, WV) and age (DC, IA, LA, VT).
3. States with data collection statutes which include sexual orientation are AZ, CA, CT, DC, FL, IL, IA, MD, MN, NV, OR and WA; those which include gender are AZ, DC, IL, IA, MN, WA.
4. Some other states have regulations mandating such training.
5. New York State law provides penalty enhancement limited to the crime of aggravated harassment.
6. The Texas Statute refers to victims selected "because of the defendant's bias or prejudice against a person or group."
7. The Utah Statute ties penalties for hate crimes to violations of the victim's constitutional or civil rights.

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Appendix D: Sources of Technical Assistance

Sources of Technical Assistance

1. Government Agencies

Office for Civil Rights (OCR)
U.S. Department of Education
330 C Street SW
Washington, D.C. 20202
800/421-3481
www.ed.gov/offices/OCR

Through the field offices below, OCR provides technical assistance and resolves complaints of discrimination, including harassment, based on race, national origin, sex, disability, and age.

Eastern Division:

Office for Civil Rights, Boston Office
U.S. Department of Education
J. W. McCormack Post Office and
Courthouse, Room 222
Boston, MA 02109 4557
617/223-9662; FAX 617/223-9669
TDD 617/223-9695
E-mail: OCR_Boston@ed.gov
(Serving Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

Office for Civil Rights, New York Office
U.S. Department of Education
75 Park Place, 14th Floor
New York, NY 10007 2146
212/637-6466; FAX 212/264-3803
TDD 212/637-0478
E-mail: OCR_NewYork@ed.gov
(Serving New Jersey, New York, Puerto Rico, Virgin Islands)

Office for Civil Rights
Philadelphia Office
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107
215/656-8541; FAX 215/656-8605
TDD 215/656-8604
E-mail: OCR_Philadelphia@ed.gov
(Serving, Delaware, Maryland, Kentucky, Pennsylvania, West Virginia)

Southern Division:

Office for Civil Rights, Atlanta Office
U.S. Department of Education
61 Forsyth St. SW, Suite 19T70
Atlanta, GA 30303 3104
404/562-6350; FAX 404/562-6455
TDD 404/562-6454
E-mail: OCR_Atlanta@ed.gov
(Serving Alabama, Florida, Georgia, South Carolina, Tennessee)

Office for Civil Rights, Dallas Office
U.S. Department of Education
1999 Bryan Street, Suite 2600
Dallas, TX 75201
214/880-2459; FAX 214/880-3082
TDD 214/880-2456
E-mail: OCR_Dallas@ed.gov
(Serving Arkansas, Louisiana, Mississippi, Oklahoma, Texas)

Office for Civil Rights, District of Columbia Office
U.S. Department of Education
1100 Pa. Ave. NW, Rm. 316
P.O. Box 14620
Washington, D.C. 20044 4620
202/208-2545; FAX 202/208-7797
TDD 202/208-7741
E-mail: OCR@ed.gov
(Serving North Carolina, Virginia, Washington, DC)

Midwestern Division:

Office for Civil Rights, Chicago Office
U.S. Department of Education
111 N. Canal Street, Suite 1053
Chicago, IL 60606 7204
312/886-8434; FAX 312/353-4888
TDD 312/353-2540
E-mail: OCR_Chicago@ed.gov
(Serving Illinois, Indiana, Minnesota, Wisconsin)

Office for Civil Rights, Cleveland Office
U.S. Department of Education
600 Superior Avenue East
Bank One Center, Suite 750
Cleveland, OH 44114 2611
216/522-4970; FAX 216/522-2573
TDD 216/522-4944
OCR_Cleveland@ed.gov
(Serving Michigan, Ohio)

Office for Civil Rights
Kansas City Office
U.S. Department of Education
10220 North Executive Hills Boulevard
8th Floor
Kansas City, MO 64153 1367
816/880-4200; FAX 816/891-0644
TDD 816/891-0582
E-mail: OCR_KansasCity@ed.gov
(Serving Iowa, Kansas, Missouri, Nebraska, North Dakota, South Dakota)

Western Division:

Office for Civil Rights, Denver Office
U.S. Department of Education
Federal Building, Suite 310
1244 Speer Boulevard
Denver, CO 80204 3582
303/844-5695; FAX 303/844-4303
TDD 303/844-3417
E-mail: OCR_Denver@ed.gov
(Serving Arizona, Colorado, Montana, New Mexico, Utah, Wyoming)

Office for Civil Rights
San Francisco Office
U.S. Department of Education
Old Federal Building
50 United Nations Plaza, Room 239
San Francisco, CA 94102 4102
415/556-4275; FAX 415/437-7783
TDD 415/437-7786
E-mail: OCR_SanFrancisco@ed.gov
(Serving California)

Office for Civil Rights, Seattle Office
U.S. Department of Education
915 Second Avenue, Room 3310
Seattle, WA 98174 1099
206/220-7900; FAX 206/220-7887
TDD 206/220-7907
E-mail: OCR_Seattle@ed.gov
(Serving Alaska, Hawaii, Idaho, Nevada, Oregon, Washington, American Samoa, Guam, the Pacific Region)

Safe and Drug-Free Schools Program (SDFS)
400 Maryland Ave. SW
Washington, D.C. 20202
202/260-3954
www.ed.gov/offices/OESE/SDFS

SDFS is a component of the U.S. Department of Education that provides discretionary and formula grant funding to state and local education agencies and other public and private organizations for a wide range of school and community based drug and violence prevention efforts.

U.S. Department of Justice
Community Relations Service (CRS)
600 E Street NW
Suite 2000
Washington, D.C. 20530
202/305-2935

CRS provides conflict resolution, conciliation, mediation, training, and a variety of other services to schools and communities to prevent or resolve conflicts arising from actions or policies perceived to be discriminatory on the basis of race or national origin.

Regional Offices - Community Relations Service

I.	Boston, MA	617/424-5715
II.	New York, NY	212/264-0700
III.	Philadelphia, PA	215/597-2344
IV.	Atlanta, GA	404/331-6883
V.	Chicago, IL	312/353-4391
VI.	Dallas, TX	214/655-8175
VII.	Kansas City, MO	816/427-7434
VIII	Denver, CO	303/844-2973
IX.	San Francisco, CA	415/744-6565
X.	Seattle, WA	206/220-6700

State Offices of the Attorney General

The State Attorneys General serve as chief legal officers to state government branches and agencies and are the principal legal representative of the public interest for all citizens.

Alabama
Attorney General of Alabama
Office of the Attorney General
State House
11 South Union Street
Montgomery, AL 36104
334/242-7401

Alaska
Attorney General of Alaska
Office of the Attorney General
Post Office Box 110300
Diamond Courthouse
Juneau, AK 99811-0300
907/465-3600

American Samoa
Attorney General of American Samoa
Office of the Attorney General
Post Office Box 7
Pago Pago, AS 96799
684/633-4163

Arizona
Attorney General of Arizona
Office of the Attorney General
1275 West Washington Street
Phoenix, AZ 85007
602/542-4266

Arkansas
Attorney General of Arkansas
Office of the Attorney General
200 Tower Building, 323 Center Street
Little Rock, AR 72201-2610
501/682-2007

California
Attorney General of California
Office of the Attorney General
1300 I Street, Suite 1740
Sacramento, CA 95814
916/324-5437

Colorado
Attorney General of Colorado
Office of the Attorney General
Department of Law
1525 Sherman Street
Denver, CO 80203
303/866-3052

Connecticut
Attorney General of Connecticut
Office of the Attorney General
55 Elm Street
Hartford, CT 06141-0120
860/808-5318

Delaware
Attorney General of Delaware
Office of the Attorney General
Carvel State Office Building
820 North French Street
Wilmington, DE 19801
302/577-8400

District of Columbia
District of Columbia
Corporation Counsel
Office of the Corporation Counsel
441 4th Street NW
Washington, DC 20001
202/727-6248

Florida
Attorney General of Florida
Office of the Attorney General
The Capitol
PL 01
Tallahassee, FL 32399-1050
850/487-1963

Georgia
Attorney General of Georgia
Office of the Attorney General
40 Capitol Square S.W.
Atlanta, GA 30334-1300
404/656-4585

Guam
Attorney General of Guam
Office of the Attorney General
Judicial Center Building
120 West O'Brien Drive
Agana, GU 96910
671/475-3324

Hawaii
Attorney General of Hawaii
Office of the Attorney General
425 Queen Street
Honolulu, HI 96813
808/586-1282

Idaho
Attorney General of Idaho
Office of the Attorney General
210 State House
700 West Jefferson
Boise, ID 83720-1000
208/334-2400

Illinois
Attorney General of Illinois
Office of the Attorney General
500 South Second Street
Springfield, IL 62706
217/785-2771

Indiana
Attorney General of Indiana
Office of the Attorney General
Indiana Government Center South
Fifth Floor
402 West Washington Street
Indianapolis, IN 46204
317/233-4386

Iowa
Attorney General of Iowa
Office of the Attorney General
Hoover State Office Building
Des Moines, IA 50319
515/281-3053

Kansas
Attorney General of Kansas
Office of the Attorney General
Judicial Building
301 West Tenth Street
Topeka, KS 66612-1597
785/296-2215

Kentucky
Attorney General of Kentucky
Office of the Attorney General
State Capitol, Room 116
Frankfort, KY 40601
502/696-5300

Louisiana
Attorney General of Louisiana
Office of the Attorney General
Department of Justice
Post Office Box 94095
Baton Rouge, LA 70804-4095
504/342-7013

Maine
Attorney General of Maine
Office of the Attorney General
State House Station Six
Augusta, ME 04333
207/626-8800

Maryland
Attorney General of Maryland
Office of the Attorney General
200 Saint Paul Place
Baltimore, MD 21202-2202
410/576-6300

Massachusetts
Attorney General of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, MA 02108-1698
617/727-2200

Michigan
Attorney General of Michigan
Office of the Attorney General
Post Office Box 30212
525 West Ottawa Street
Lansing, MI 48909-0212
517/373-1110

Minnesota
Attorney General of Minnesota
Office of the Attorney General
State Capitol
Suite 102
St. Paul, MN 55155
651/296-6196

Mississippi
Attorney General of Mississippi
Office of the Attorney General
Department of Justice
Post Office Box 220
Jackson, MS 39205-0220
601/359-3692

Missouri
Attorney General of Missouri
Office of the Attorney General
Supreme Court Building
207 West High Street
Jefferson City, MO 65101
573/751-3321

Montana
Attorney General of Montana
Office of the Attorney General
Justice Building, 215 North Sanders
Helena, MT 59620-1401
406/444-2026

Nebraska
Attorney General of Nebraska
Office of the Attorney General
State Capitol
Post Office Box 98920
Lincoln, NE 68509-8920
402/471-2682

Nevada
Attorney General of Nevada
Office of the Attorney General
Old Supreme Court Building
198 South Carson Street
Carson City, NV 89701
702/687-4170

New Hampshire
Attorney General of New Hampshire
Office of the Attorney General
State House Annex, 33 Capitol Street
Concord, NH 03301-6397
603/271-3655

New Jersey
Attorney General of New Jersey
Office of the Attorney General
Richard J. Hughes Justice Complex
25 Market Street, P.O.B. 080
Trenton, NJ 08625
609/292-4925

New Mexico
Office of the Attorney General
Bataan Memorial Bldg., Room 260
407 Galisteo Street
Santa Fe, NM 87501
505/827-6000

New York
Office of the Attorney General
Department of Law
State Capitol
Albany, NY 12224
518/474-7330

North Carolina
Office of the Attorney General
Department of Justice
114 W. Edenton
Raleigh, NC 27601
919/716-6400

North Dakota
Attorney General of North Dakota
Office of the Attorney General
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505-0040
701/328-2210

N. Mariana Islands
Attorney General of the Northern
Mariana Islands
Office of the Attorney General
Administration Building
Saipan, MP 96950
670/664-2341

Ohio
Office of the Attorney General
State Office Tower
30 East Broad Street
Columbus, OH 43266
614/466-4940

Oklahoma
Office of the Attorney General
State Capitol
2300 North Lincoln Boulevard
Oklahoma City, OK 73105
405/521-3921

Oregon
Office of the Attorney General
Justice Building
1162 Court Street NE
Salem, OR 97310
503/378-6002

Pennsylvania
Office of the Attorney General
Strawberry Square
Harrisburg, PA 17120
717/787-3391

Puerto Rico
Office of the Attorney General
Post Office Box 192
San Juan, PR 00902-0192
787/721-7700

Rhode Island
Attorney General of Rhode Island
Office of the Attorney General
150 South Main Street
Providence, RI 02903
401/274-4400

South Carolina
Attorney General of South Carolina
Office of the Attorney General
Rembert C. Dennis Office Building
Post Office Box 11549
Columbia, SC 29211-1549
803/734-3970

South Dakota
Attorney General of South Dakota
Office of the Attorney General
500 East Capitol
Pierre, SD 57501-5070
605/773-3215

Tennessee
Attorney General of Tennessee
Office of the Attorney General
500 Charlotte Avenue
Nashville, TN 37243
615/741-6474

Texas
Attorney General of Texas
Office of the Attorney General
Capitol Station
Post Office Box 12548
Austin, TX 78711-2548
512/463-2191

Utah
Attorney General of Utah
Office of the Attorney General
State Capitol, Room 236
Salt Lake City, UT 84114-0810
801/538-1326

Vermont
Attorney General of Vermont
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001
802/828-3173

Virginia
Attorney General of Virginia
Office of the Attorney General
900 East Main Street
Richmond, VA 23219
804/786-2071

Virgin Islands
Attorney General of the Virgin Islands
Office of the Attorney General
Department of Justice
G.E.R.S. Complex
48B-50C Kronprinsdens Gade
St. Thomas, VI 00802
340/774-5666

Washington
Attorney General of Washington
Office of the Attorney General
P.O. Box 40100
1125 Washington Street SE
Olympia, WA 98504-0100
360/753-6200

West Virginia
Attorney General of West Virginia
Office of the Attorney General
State Capitol
1900 Kanawha Boulevard East
Charleston, WV 25305
304/558-2021

Wisconsin
Attorney General of Wisconsin
Office of the Attorney General
State Capitol
Post Office Box 7857
Suite 114 East
Madison, WI 53707-7857
608/266-1221

Wyoming
Attorney General of Wyoming
Office of the Attorney General
State Capitol Building
Cheyenne, WY 82002
307/777-7844

2. Private and other Organizations

National Association of Attorneys General (NAAG)
750 First Street NE, Suite 1100
Washington, D.C. 20002
202/326-6000
www.naag.org

NAAG is the membership organization of the State Offices of the Attorney General. Its mission is to help Attorneys General respond effectively, individually and collectively, to emerging state and federal issues. NAAG's Bias Crimes Task Force operates in conjunction with the U.S. Department of Justice and other agencies to provide information and training to police departments, schools, and community organizations to prevent and prosecute bias crimes.

Desegregation Assistance Centers

Desegregation Assistance Centers are funded by the U.S. Department of Education to provide free or low cost technical assistance to school districts on a wide range of equity issues, including racial and sexual harassment.

New England Desegregation Assistance Center for Equity in Education
Brown University
144 Wayland Ave.
Providence, RI 02906
Telephone: 401/351-274-9548; FAX 401/351-9594, www.brown.edu//Research/The_Educational_Alliance/DAC/dac.html
(Serving Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

Equity Assistance Center
The Metropolitan Center for Urban Education
New York University
82 Washington Square, Suite 72
New York, NY 10003
Telephone: 212/998-5100; FAX 212/995-4199, www.nyu.edu/education/metrocenter/eac/eac.html
(Serving New Jersey, New York, Puerto Rico, Virgin Islands)

The Mid-Atlantic Center
5454 Wisconsin Avenue, Suite 655
Chevy Chase, MD 20815
Telephone: 301/657-7741; FAX 301/657-8782, www.maec.org
(Serving Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia)

Southeastern Equity Center
Miami Equity Associates, Inc.
8603 S. Dixie Highway, Suite 304
Miami, FL 33143
Telephone: 305/669-0114; FAX 305/669-9809, E-mail:sedac@aol.com
(Serving Alabama, Florida, Georgia, Kentucky, Mississippi, South Carolina, Tennessee, North Carolina)

Programs for Educational Opportunity
University of Michigan
1005 School of Education
Ann Arbor, MI 48109
Telephone: 734/763-9910; FAX 734/763-2137, www.umich.edu/~eqtynet
(Serving Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

Intercultural Development Research Association
5835 Callahan, Suite 350
San Antonio, TX 78210
Telephone: 210/684-8180; FAX 210/684-5389; www.idra.org
(Serving Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

Midwest Desegregation Assistance Center
Kansas State University
401 Bluemont Hall
Manhattan, KS 66506
Telephone: 785/532-6408; FAX 785/532-5548; http://mdac.edu.ksu.edu
(Serving Iowa, Kansas, Missouri, Nebraska)

Educational Equity Center
The Metropolitan State College of Denver
Campus Box #3
1100 Stout Street, Suite 800
Denver, CO 80204
Telephone: 303/556-8494; FAX 303/556-8505; http://clem.mscd.edu/~eec_svcs
(Serving Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

West Ed
Center for Educational Equity
4665 Lampson Avenue
Los Alamitos, CA 90720
Telephone: 562/598-7661; FAX 562/985-9635; www.WestEd.org
(Serving Arizona, California, Nevada)

Center for National Origin, Race, and Sex Equity
Northwest Regional Educational Laboratory
101 SW Main, Suite 500
Portland, OR 97204
Telephone: 503/275-0664; FAX 503/275-0452; www.nwrel.org
(Serving Alaska, Hawaii, Idaho, Oregon, Washington, American Samoa, Guam

Anti-Defamation League (ADL)
823 United Nations Plaza
New York, NY 10017
800/343-5540
212/490-2525
www.adl.org

With 31 regional offices, ADL is dedicated to combating hate crime and promoting intergroup cooperation and interfaith understanding. Through its World of Difference Program, ADL develops and provides a large number of training programs, materials, technical assistance and other services to schools and communities to promote intergroup and interfaith understanding. ADL has national offices in Washington, D.C. and New York City and regional offices as follows:

Albuquerque, NM 505/823-2712
Atlanta, GA 404/262-3470
Boston, MA 617/45, 8800
Chicago, IL 312/782-5080
Cleveland, OH 216/579-9600
Columbus OH 614/621-0601
New Haven, CT 203/772-1300
Dallas, TX 972/960-0342
Denver, CO 303/830-7177
Detroit, MI 248/355-3730
Fort Lauderdale, FL 954/779-3090
Houston, TX 713/627-3490
Las Vegas, NV 702/862-8600
Long Island, NY 516/496-0328
Los Angeles, CA 310/446-8000
Miami, FL 305/373-6306
New Orleans, LA 504/522-9534
New York, NY 212/885-7970
Norfolk, VA 757/455-9002
Omaha, NE 402/333-1303
Orange County, CA 714/979-4733
Palm Beach County, FL 561/832-7144
Philadelphia, PA 215/735-4267
Phoenix, AZ 602/274-0991
San Diego, CA 619/293-3770
San Francisco, CA 415/981-3500
Seattle, WA 206/448-5349
St. Louis, MO 314/432-6868
Washington, DC 202/452-8310
West Orange, NJ 973/669-9700

National School Boards Association (NSBA)
1680 Duke Street
Alexandria, VA 22314
703/838-6722
www.nsba.org

Representing 95,000 school board members, NSBA's mission is to further excellence and equity in public schools through local school leadership. Activities include participation in public forums relevant to federal and national education issues, representing school board perspectives before federal government agencies, and providing information and services to school boards throughout the country, including information on activities to prevent and address harassment in schools.

Educators for Social Responsibility (ESR)
23 Garden Street
Cambridge, MA 02138
800/370-2515

ESR creates and disseminates publications and programs for teachers and students emphasizing intergroup relations, violence prevention, character education, critical thinking, and social responsibility.

Teaching Tolerance
400 Washington Ave.
Montgomery, AL 36104
334/264-0286
www.splcenter.org

A project of the Southern Poverty Law Center, Teaching Tolerance is a national education project dedicated to helping teachers foster equity, respect, and understanding. Numerous activities and publications are available.

National Association of Colored People (NAACP)
4805 Mount Hope Drive
Baltimore, MD 21215
410/747-7200

Among other objectives, the 2200 chapters of the NAACP work to ensure the equality of minority students in school.

National Council of La Raza (NCLR)
111 19th Street NW
Suite 1000
Washington, D.C. 20036
202/289-1380

NCLR's Center for Community Educational Excellence works to build community-school collaboration, strengthen the quality of education for Hispanic students, and more effectively involve Hispanic families in the education of their children.

Aspira Association, Inc.
1444 I Street NW, 8th floor
Washington, D.C. 20005
202/835-3600
www.incacorp.com/aspira

Aspira is a national organization devoted to serving Puerto Rican and other Latino youth through leadership development in conjunction with parent and community groups.

National Youth Advocacy Coalition
1711 Connecticut Ave. NW, Suite 206
Washington, D.C. 20009
202/319-7596, nyac@nyacyouth.org

National organization focused on improving the lives of gay, lesbian, bisexual and transgender youth through advocacy, education and information. NYAC's Bridges Project provides resources, technical assistance and referrals.

Parents, Families and Friends of Lesbians and Gays (PFLAG)
1011 14th Street NW, Suite 1030
Washington, D.C. 20005
202/638-4200

Organized in over 400 communities, PFLAG offers support for sexual minority youth who may feel unsafe in their communities because they are the targets of anti-gay attitudes.

Lambda Legal Defense and Education Fund
380 Lexington Ave.
New York, NY 10168
212/682-3454

National organization committed to achieving full recognition of the civil rights of lesbians, gay men and people with HIV/AIDS through litigation, education and public policy work. Regional offices in Chicago (312/759-8110) and Los Angeles (213/937-2728).

Gay, Lesbian and Straight Education Network (GLSN)
121 West 27th Street, Suite 804
New York, NY 10001
212/727-0135

With over 90 chapters nationwide, GLSN is the largest national organization addressing issues of anti-gay bias in K-12 schools. GLSN provides classroom resources as well as workshops and training for school communities to help make schools safe for all students, regardless of sexual orientation.

National Coalition for Sex Equity in Education (NCSEE)
P.O. Box 534
Annandale, NJ 08801-0534
908/735-5045; FAX 908/735-9674

Founded in 1979, to provide training and support for gender equity specialists in regional, state and local education programs. NYSEE now provides leadership in the identification and infusion of sex equity in all education programs and within parallel equity concerns, including, but not limited to, age, disability, national origin, race, religion, and sexual orientation. With an annual conference and newsletter, NYSEE serves as a resource for educational institutions, community organizations, and policy makers.

National Women's Law Center
11 Dupont Circle NW, Suite 800
Washington, D.C. 20036
202/588-5180
www.nwlc.org

National organization that has worked to advance and protect women's rights since 1972. The Center focuses on major policy areas of importance to women and their families, including education. Recently published two publications on preventing and addressing sexual harassment.

Center for Democratic Renewal (CDR)
P.O. Box 50469
Atlanta, GA 30302
404/221-0025

National clearinghouse of information on white supremacist movement; provides training to schools, churches, community organizations, and law enforcement agencies. Over 40 publications available.

Facing History and Ourselves (FHAO)
16 Hurd Road
Brookline, MA 02146
617/232-1595
www.facing.org

With regional offices in Chicago, Memphis, Boston, New York and Los Angeles, FHAO provides resources, speakers, workshops and teacher institutes with the goal of teaching students the lessons of history necessary to be responsible and involved citizens. Workshops help teachers to design their own courses or lessons.

National Education Association (NEA)
1201 Sixteenth Street NW
Washington, D.C. 20036
202/822-7453

Among other activities, NEA's Human and Civil Rights Division focuses on preventing and responding to hate motivated incidents in schools. Provides training, technical assistance, and information to NEA's members and the public.

American Federation of Teachers (AFT)
555 New Jersey Avenue NW
Washington, D.C. 20001
800/238-1133 ext. 4434
202/879-4434
www.aft.org/humanrights/index.htm

The Human Rights and Community Relations Department of the AFT serves as a clearinghouse of information on civil, human and women's rights issues, keeping local and state affiliates informed of current trends and publications, and maintaining relationships with community and civil rights organizations.

Center for the Study and Prevention of Violence (CSPV)
University of Colorado
Campus Box 442
Boulder, Colorado 80309-0442
303/492-1032

Compiles research on causes and prevention of violence. Offers technical assistance for evaluation and development of violence prevention programs.

National Congress of Parents and Teachers
330 N. Wabash Street, Suite 2100
Chicago, IL 60611
312/670-6782

Information on school safety issues, including parent initiatives.

American-Arab Anti-Discrimination Committee
4201 Connecticut Avenue NW
Suite 300
Washington, D.C. 20008
202/244-2990

Committee provides information on hate crimes against Arab-Americans.

National Asian Pacific Legal Consortium
1140 Connecticut Avenue NW
Suite 1200
Washington, D.C. 20036
202/296-2300; FAX 202/296-2318
www.NAPALC.org
E-mail:NAPALC@napalc.org

Nonprofit, nonpartisan organization whose mission is to advance and protect the legal and civil rights of Asian Pacific Americans. In their efforts

to address and prevent anti-Asian violence, the Consortium and its affiliates monitor and document hate-motivated incidents, publish an annual audit of anti-Asian violence, and provide education to the Asian Pacific American community, law enforcement, policy makers and the general public. Affiliates are:

• Asian American Legal Defense and Education Fund
99 Hudson Street, 12th floor
New York, NY 10013
212/966-5932
E-mail:AALDEF@WORLDNET.ATT.NET

• Asian Law Caucus
720 Market Street
San Francisco, CA 94102
415/391-1655
E-mail: HN5601@HANDSNET.ORG

• Asian Pacific American Legal Center of Southern California
1010 S. Flower Street, Suite 302
Los Angeles, CA 90015
213/748-2022
E:mail: APALC@EARTHLINK.NET

National Center for
Hate Crime Prevention
Education Development Center (EDC)
55 Chapel Street
Newton, MA 02458
617/969-7100, ext. 2336
FAX 617/244-3436
E:mail: osula@edc.org

Funded by the U.S. Department of Justice Office for Juvenile Justice and Policy Prevention and the U.S. Department of Education's Office of Safe and Drug-free Schools to provide technical assistance, training, and resources to professionals and communities interested in preventing hate crimes.

Wellesley College Center for Research on Women
106 Center Street
Wellesley, MA 02481
781/283-2500
www.wellesley.edu/WCW/

Founded in 1974, the Center is home to an interdisciplinary community of scholars engaged in research designed to generate and shape public policy. Major source of expertise, training, professional development, and publications on sex equity, sexual harassment, gender violence and bullying.

American Association for Mental Retardation
444 N. Capitol Street NW, Suite 846
Washington, D.C. 20001
202/424-3688

National organization devoted to furthering opportunities for persons with disabilities. This organization may be able to provide referrals to a range of persons and organizations that can help schools counter harassment of students with disabilities.

Center for Civic Education
5146 Douglas Fir Road
Calabasas, CA 91302-1467
818/591-9321
www.civiced.org/aboutcce.html

Independent, nonprofit corporation with a network of program coordinators and youth chapters in every state. The Center administers curricular, teacher training and community based programs to promote participation in American constitutional democracy. The Center's Youth for Justice, supported by the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice, is a national network of programs for all grade levels that involve students in identifying and implementing solutions that will lead to safe, disciplined and drug-free schools.

Study Circles Resource Center (SCRC)
P.O. Box 203
Pomfret, CT 06258
860/928-2616

SCRC helps communities use study circles (small, democratic, discussion groups) to discuss and problem-solve on issues such as race, education, and crime. Materials are available for use in middle schools and upper grades.

Green Circle Program
1300 Spruce Street
Philadelphia, PA
215/893-8400

Programs developed by Green Circle for students ages 12-18 to promote awareness and appreciation of diversity in school and other settings. Looks at language, stereotypes, and the impact of historical and current events.

Native American Rights Fund
1506 Broadway
Boulder, CO 80302
303/447-8760; FAX 303/443-7776

The Native American Rights Fund is a national legal organization dedicated to the preservation of tribal and individual Native American rights, treaty rights, land claims and other issues of vital interest to Native Americans. This organization can provide referrals to regional and local sources of expertise.

National Indian Education Association
700 North Fairfax Street
Suite 210
Alexandria, VA 22314
703/838-2870; FAX 703/838-1620

The NIEA is the nation's oldest and largest organization that advocates primarily for the improvement of education services and opportunities for American Indian and Alaska Natives. The NIEA provides workshops on racial harassment of American Indians, helps to ensure culturally accurate and appropriate curricula in public education settings, and consults on individual problems. The NIEA encompasses a nationwide network of individuals and resources.

Appendix E: Books, Publications and Videos

Books, Publications and Videos

Following is a sample of the many publications and educational materials available. In some instances, information about the contents is provided. Contact the organization listed for further information. Cost information is not included.

1. General publications, books, manuals, articles, and monographs

Office for Civil Rights; Sexual Harassment Guidance; Harassment of Students by School Employees, Other Students, or Third Parties; Notice, 62 Federal Register 12034 (March 13, 1997). U.S. Department of Education, Office for Civil Rights, Washington, D.C. 800/421-3481, available at www.ed.gov/offices/OCR or by calling 877/4ED-PUBS toll-free. The Guidance provides educational institutions with information regarding the standards that OCR uses, and that institutions should use, to investigate and resolve allegations of sexual harassment of students engaged in by school employees, other students or third parties.

Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance; Notice, 59 Federal Register 11448 (March 10, 1994), available at www.ed.gov/offices/OCR or by calling 877/4ED-PUBS toll-free. Explains the standards used by OCR in investigating and resolving complaints of racial harassment.

Preventing Youth Hate Crime — A Manual for Schools and Communities. U.S. Department of Education, Safe and Drug-Free Schools Program, 400 Maryland Ave. SW, Washington, D.C. 20202, 202/260-3954. Available at www.ed.gov/offices/OESE/SDFS/news.html or by calling 877/4ED-PUBS toll-free. Issued in 1998, this pamphlet provides an overview of methods for preventing hate crime, describes model programs, and lists numerous resources.

Early Warning, Timely Response. A Guide to Safe Schools, available at www.ed.gov/offices/OSERS/OSEP/earlywrn.html or by calling 877/4ED-PUBS toll-free. This new guide offers research based practices designed to assist schools and communities in identifying early warning signs of troubled children and developing prevention, intervention, and crisis response plans.

Annual Report on School Safety
www.ed.gov/offices/OESE/SDFS/news.html or by calling 877/4ED-PUBS toll-free. This new report was issued by the U.S. Department of Education and the U.S. Department of Justice in October 1998; the report provides an overview of the scope of school crime and describes the actions that schools and communities can take to address this issue. The report contains numerous descriptions and evaluative data regarding existing school programs to prevent or address hate crime, harassment, and school violence and references to many resources on school safety and conflict resolution activities.

A Policymaker's Guide to Hate Crimes. Bureau of Justice Assistance, U.S. Department of Justice, Washington, D.C. (March 1997), 800/688-4252, www.ojp.usdoj.gov/BJA. A summary of hate crime enforcement issues, not limited to education.

1997 Hate Crimes Laws. Anti-Defamation League (1997), 800/343-5540. Booklet describes various types of hate crime laws and provides information on state level enforcement. Also, *Hate Crimes: ADL Blueprint for Action* (1997) describes ADL projects and coalitions around the country working against hate crime.

Abolishing Harassment, Equity Coalition for Race, Gender and National Origin, Volume IV, Number 1 (Spring 1996), published by Programs for Educational Opportunity, University of Michigan School of Education, Ann Arbor, MI 48109, 734/763-9910, www.umich.edu/~eqtynet. Series of articles on harassment based on race, sex, and other grounds. Provides a thorough explanation of the issues involved and a list of resources.

Hate Crime: A Sourcebook for Schools Confronting Bigotry, Harassment, Vandalism and Violence, Cristina Bodinger-DeUriarte and Anthony R. Sancho (1991), Southwest Center for Educational Equity, Southwest Regional Laboratory, 4665 Lampson Avenue, Los Alamitos, CA 90720, 562/598-7661, www.WestEd.org.

Title IX Grievance Procedures: An Introductory Manual, U.S. Department of Education, Office for Civil Rights (1987), 800/421-3481 or 877/4ED-PUBS. In-depth presentation of various methods of providing grievance procedures required under Title IX.

Stopping Anti-Gay Abuse of Students in Public Schools: A Legal Perspective, David Buckel, Staff Attorney, Lambda Legal Defense and Education Fund, Inc. (New York 1996). Article describing strategies for stopping harassment based on sexual orientation.

When Hate Groups Come to Town, Resource Manual, Center for Democratic Renewal, P.O.Box 50469, Atlanta, GA 30302, 404/221-0025.

Hate-Motivated Behavior in Schools -- Response Strategies for School Boards, Administrators, Law Enforcement, and Communities, developed by Sherry McLaughlin, for the Alameda County Office of Education in cooperation with the California Department of Education (1997), 313 W. Winton Ave., Hayward, CA 94544 510/670-4220, 800/995-4099. Comprehensive, succinct treatment of anti-harassment strategies for schools. Includes materials appropriate for staff training, descriptions of model programs, and citations to numerous resources.

The Legal Rights of Public School Students and Teachers: A Focus on Sexual Orientation Discrimination in Massachusetts Elementary and Secondary Schools, Gay and Lesbian Advocates and Defenders (GLAD), 294 Washington Street, Suite 740, Boston, MA 02108, 617/426-1350.

Preventing and Countering School-Based Harassment -- A Resource Guide for K-12 Educators, Northwest Regional Educational Laboratory, Center for National Origin, Race and Sex Equity (July 1997), 101 S.W. Main Street, Suite 500, Portland, OR 97204, 503/275-9603 www.nwrel.org/cnorse. Written in easy-to-understand terms for teachers, parents, and administrators, this guide covers harassment based on race, sex, and other grounds.

Understanding and Dealing with Sexual Harassment, North Dakota Department of Public Instruction, 600 East Boulevard Avenue, Bismarck, ND 58505, 701/328-2310.

Righting the Wrongs, A Legal Guide to Understanding, Addressing, and Preventing Sexual Harassment in Schools, by Deborah L. Brake and Verna L. Williams, National Women's Law Center (1998), in collaboration with the Council of Chief State School Officers and the National School Boards Association, 11 Dupont Circle NW, Suite 800, Washington, D.C. 20036, 202/588-5180, www.nwlc.org. Recently published, this guide contains in-depth coverage of legal issues relevant to sexual harassment, including First Amendment and FERPA concerns; practical suggestions; sample policy and forms; and table of state sexual harassment laws.

Do the Right Thing, Understanding, Addressing, and Preventing Sexual Harassment in Schools, A Practical Guide for Educators, Parents, and Students, by Verna L. Williams and Deborah L. Brake, National Women's Law Center, in collaboration with the Council of Chief State School Officers and the National School Boards Association (1998), 11 Dupont Circle NW, Suite 800, Washington, D.C. 20036, 202/588-5180, www.nwlc.org. Written in nontechnical terms, this recently published guide contains a review of applicable law, prevention and intervention strategies, case studies, and lists of expert resources for educators, parents, and others.

Student-to-Student Sexual Harassment: A Legal Guide for Schools, National School Boards Association (1998), 1680 Duke Street, Alexandria, VA 22314, 703/838-6722, FAX 703/683-7590. Comprehensive information on preventing and responding to sexual harassment.

The Gay Teen: Educational Practice and Theory for Lesbian, Gay and Bisexual Adolescents, Ed. Unks (1995 New York: Rutledge). Book.

Educator's Guide to Controlling Sexual Harassment, Bernice R. Sandler (1994), Thompson Publishing Group, Inc., 1725 K Street NW, 7th floor, Washington, D.C. 20006, 1-800-677-3789, http://www.thompson.com. Includes monthly updates on recent cases and changes in the law.

2. Curriculum materials and teacher guides

Looking for America, Volume I: Promising School-Based Practices in Intergroup Relations (1994); Volume II: Seven Schools Experimenting with Intergroup Relations (1995), National Coalition of Advocates for Students, 100 Boylston Street, Boston, MA 02116. Documents model schools and curricula that foster positive intergroup relations, particularly between immigrant students and their U.S.-born classmates.

America's Civil Rights Movement, The Shadow of Hate, and *Starting Small*, Teaching Tolerance, 400 Washington Ave., Montgomery, AL 36104, 334/264-0286, FAX 334/264-3710, www.splcenter.org/teachingtolerance.html. Free video and text teaching kits, suitable for various grade levels, including preschool and early grades.

Anti-Defamation League Catalog for Classroom and Community, Anti-Defamation League, World of Difference, 823 United Nations Plaza, New York, NY 10017, 212/490-2525, 800/343-5540, www.adl.org. Describes hundreds of available K-12 curricula and instructional materials, including videos and teacher guides.

Facing History and Ourselves, Facing History and Ourselves National Foundation, Inc., Brookline, MA (1995), 617/232-1595, www.facing.org. Suitable for grades 7-12.

Flirting of Hurting? A Teacher's Guide to Student-to-Student Sexual Harassment in Schools, Wellesley College Center for Women, Publications Department, 106 Central Street, Wellesley, MA (1994), 781/283-2510. Suitable for grades 6-12.

Hands Across Campus, American Jewish Committee, Washington, D.C. (1996), 202/785-4200. Suitable for grades 6-12.

Healing the Hate: A National Bias Crime Prevention Curriculum for Middle Schools, Education Development Center, Inc., and the Office of Juvenile Justice and Delinquency Prevention, Washington, D.C. (January 1997), 800/ 225-4276 or 800/638-8736. A multi-unit curriculum in which students develop skills in empathy, critical thinking, perspective taking, and media literacy.

Tolerance for Diversity of Beliefs: A Secondary Curriculum Unit, Social Science Education Consortium, Boulder, CO, 303/492-8154.

Quit It, A Teacher's Guide to Teasing and Bullying for Use with Students Grades K-3, Merle Froschl, Barbara Sprung, and Nancy Mullin-Rindler, with Nan Stein and Nancy Gropper, a joint publication of the Educational Equity Concepts, Inc., the Wellesley College Center for Research on Women, and the NEA Professional Library, Educational Equity Concepts, Inc., 114 East 32nd Street, New York, NY 10016, 212-725-1803, E-mail 75507.1306@compuserve.com.

Bullyproof: A Teacher's Guide on Teasing and Bullying for Use with 4th and 5th Grade Students, Nan Stein and Lisa Sjostrom, Wellesley College Center for Research on Women and NEA Professional Library, Publications Department, 106 Central Street, Wellesley, MA 02181, 781/283-2510.

Teacher, they called me a ————!, Confronting Prejudice and Discrimination in the Classroom, Deborah Byrnes, Anti-Defamation League, 823 United Nations Plaza, New York, NY 10017, 800/343-5540. A publication of the Anti-Defamation League and the Utah State Office of Education.

Teaching Tolerance, Southern Poverty Law Center, 400 Washington Avenue, Montgomery, AL 36104, 334/264-0286. Semiannual magazine, provided free to educators, contains ideas and strategies for teaching against prejudice and provides access to curriculum and other materials offered by the Center.

Pride in Who We Are: Compendium of Model Programs and *Prejudice Reduction and Hate Crimes Prevention: An Annotated Bibliography of Resources for Teachers and School Administrators*. New Jersey Department of Education, Division of Student Services, Office of Bilingual Education and Equity Issues (August 1997), 609/292-8777.

Talking to Our Children about Racism, Prejudice, and Diversity. Leadership Conference Education Fund, 1629 K Street NW, Suite 1010, Washington, D.C., 20006, 202/466-3434. Suitable for grades K-3.

Resolving Conflict Creatively Program (RCCP). RCCP National Center, 40 Exchange Place, Suite 1111, New York, NY 10005, 212/509-0022, FAX 212/509-1095. An initiative of the Educators for Social Responsibility, this K-12 model includes professional development for teachers, classroom instruction, peer mediation and bias awareness training.

3. Brochures and other materials for students and parents

Sexual Harassment, It's Not Academic (March 1997). U.S. Department of Education, Office for Civil Rights, Washington, D.C., 800/421-3481 or 877/4ED-PUBS, www.ed.gov/offices/OCR. This pamphlet outlines basic principles in dealing with sexual harassment in a question-and-answer format. Suitable for a general audience, including parents and older students.

Sexual Harassment – It's Not Fun, It's Illegal (for Deaf and Hard of Hearing Students). Minnesota Department of Children, Family and Learning, 550 Cedar Street, St. Paul, MN 55101.

Stop the Hate: A Community Brochure. El Hogar de la Paz, Tucson Police Department, Pima County/Tucson Anti-Hate Crimes Task Force/ Tucson Unified School District (1997), 520/791-4444.

Tune In to Your Rights: A Guide for Teenagers about Turning Off Sexual Harassment (1985). Barbara Morris, Jacquie Terpstra, Bob Croninger, and Eleanor Linn, Programs for Educational Opportunities, University of Michigan School of Education, Ann Arbor, MI 48109-1259, 734/763-9910. Popular, well-written pamphlet for students on dealing with sexual harassment. Available in English, Spanish, and Arabic.

Erasing Hate, A Guide to Your Civil Rights in School, published by the Massachusetts Office of the Attorney General, 617/727-2200. Summarizing Massachusetts and federal rights and remedies of students encountering harassment and bias crime, this is an example of a short informative pamphlet written for general audiences.

What to Tell Your Child About Prejudice and Discrimination (1997), published by the National Parent Teacher Association, 300 N. Wabash Street, Suite 2100, Chicago, IL 60611, 312/670-6782, and the Anti-Defamation League, 823 United Nations Plaza, New York, NY 10017. Six-page pamphlet written for parents to explore how children learn prejudices, why young children use name calling, and what parents can do to counteract prejudice in their children.

4. Youth Activity Programs

NCSEE News (Summer 1998), P.O. Box 534, Annandale, N.J. 08801, 908/735-5045. Describes almost 20 student projects devoted to combating sexual and racial harassment and discrimination.

Panel of Young Americans, Anti-Defamation League, 823 United Nations Plaza, New York, NY 10017, 800/343-5540. Guide for creating student diversity panels; video and curricular materials.

Tucson Unified School District Collaborative for Violence Prevention, 1010 East 10th Street, Tucson, AZ 85717, 520/512-3084. El Hogar de la Paz project trains youth in prevention strategies.

Conflict Resolution for Youth: Programming for Schools, Youth-Serving Organizations, and Community and Juvenile Justice Settings, 800/638-8736. Videotaped teleconference held in 1996 on implementing conflict resolution strategies in schools, including information on training and consultation resources.

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